



CITY COUNCIL STAFF REPORT

MEETING DATE: December 3, 2003

RESOLUTION DECLARING INTENT OF CITY COUNCIL TO REIMBURSE ITSELF FOR CERTAIN WATER CAPITAL PROJECT COSTS WITH REVENUE BONDS

Agenda Item # 1

Prepared By:

Finance Director

Submitted By:

City Manager

RECOMMENDED ACTION:

Adopt Resolution declaring official intent on behalf of the City pursuant to Section 1.150-2 of the Treasury Regulations

EXECUTIVE SUMMARY:

On November 19, 2003, staff made a presentation to the City Council concerning the need to increase water rates. Staff also indicated to the City Council at the meeting that it would be necessary to issue approximately \$5 million in water revenue bonds by early 2003/04 in order to finance water impact capital projects and to reimburse the City for capital project costs incurred prior to the issuance of bonds. The City Council directed staff to proceed with the issuance of such water revenue bonds.

It is necessary for the City Council to adopt the attached Resolution at this time so that the City may properly reimburse itself, under United States Treasury Regulations, from bond proceeds for capital project costs incurred prior to the issuance of bonds. Since the Treasury Regulations require that the City declare its intent to reimburse itself not later than sixty days after payment of the expenditures, attached Exhibit A lists costs already paid or anticipated to be paid between October 3, 2003, and June 30, 2004.

FISCAL IMPACT:

There is no direct fiscal impact from this action. The declaration of intent protects the City's right to reimburse itself from bond proceeds for project costs already budgeted in Fiscal Year 2003/04.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DECLARING OFFICIAL INTENT ON BEHALF OF THE CITY PURSUANT TO SECTION 1.150-2 OF THE TREASURY REGULATIONS

THE CITY COUNCIL OF THE CITY OF MORGAN HILL HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. Section 1.150-2 of the Treasury Regulations governs the allocation of expenditures of a reimbursement bond. A reimbursement bond is that portion of an issue of bonds allocated to reimburse an original expenditure (i.e., an expenditure for a governmental purpose that is originally paid from a source other than a reimbursement bond) that was paid before the date of issue of such bonds. Section 1.150-2 provides rules to determine when an allocation of bond proceeds to reimburse an original expenditure will be treated as an expenditure of those bond proceeds.

Section 2. In order for such an allocation of bond proceeds to be treated as an expenditure of the bond proceeds, the issuer of the bonds must, in accordance with Section 1.150-2, adopt an official intent for the original expenditure, being a declaration of intention by the issuer to reimburse the original expenditure with proceeds of an obligation.

Section 3. The City hereby declares official intent, as described in Exhibit A, in accordance with Section 1.150-2.

Section 4. Exhibit A stating the date, shall be filed with the City Clerk and complies with all of the following requirements:

A. Time of Declaration. The official intent shall be declared not later than 60 days after payment of the original expenditure.

B. Project Description in Official Intent. The declaration of official intent shall generally describe the project for which the original expenditure is paid and state the maximum principal amount of obligations expected to be issued for the project. A project includes any property, project or program. A project description shall also be sufficient if it identifies, by name and functional purpose, the fund or account from which the original expenditure is paid.

C. Reasonableness of Official Intent. On the date of the declaration of official intent, there must be a reasonable expectation that the City will reimburse the original expenditure with proceeds of an obligation. Official intent shall not be declared as a matter of course or in amounts substantially in excess of the amounts expected to be necessary for the project.

Section 5. Section 4 hereof does not apply to the following:

A. Costs of issuance of any bond or an amount not in excess of the lesser of \$100,000 or five percent of the proceeds of the issue; or

B. Any preliminary expenditures up to an amount not in excess of 20 percent of the aggregate issue price of the issue or issues that finance or are reasonably expected by the City to finance the project for which the preliminary expenditures were incurred. Preliminary expenditures include architectural, engineering, surveying, soil testing, reimbursement bond issuance, and similar costs that are incurred prior to commencement of acquisition, construction, or rehabilitation of a project, other than land acquisition, site preparation, and similar costs incident to commencement of construction.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 3rd Day of December, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

☪ CERTIFICATION ☪

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on December 3, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

CITY OF MORGAN HILL
DECLARATION OF OFFICIAL INTENT

The undersigned Mayor of the City of Morgan Hill is making this declaration of official intent on behalf of the City in accordance with Section 1.150-2 of the Treasury Regulations, and in accordance with Resolution No. _____ of the City Council.

Section 1.150-2 governs the allocation of expenditures of a reimbursement bond. A reimbursement bond is that portion of an issue of bonds allocated to reimburse an original expenditure (i.e., an expenditure for a governmental purpose that is originally paid from a source other than a reimbursement bond) that was paid before the date of issue of such bonds. Section 1.150-2 provides rules to determine when an allocation of bond proceeds to reimburse an original expenditure will be treated as an expenditure of those bond proceeds.

In order for such an allocation of bond proceeds to be treated as an expenditure of the bond proceeds, the issuer of the bonds must, in accordance with Section 1.150-2, adopt an official intent for the original expenditure, being a declaration of intention by the issuer to reimburse the original expenditure with proceeds of an obligation.

Today's date (which is the date of this declaration of official intent) is December 3, 2003. The date of this declaration of official intent is not later than 60 days after payment of the original expenditure. The dates, project names, maximum principal amounts of obligations expected to be issued, and names and functional purposes of the funds or accounts from which the original expenditures are paid, for the original expenditures are as follows:

<u>Date</u>	<u>Project Name</u>	<u>Maximum Principal</u>	<u>Name & Purpose of Fund</u>
12/3/03-6/30/04	New Well Reservoirs	\$1,600,000	Water Capital Project/Impact
10/3/03-6/30/04	Edmndsn Main Distr	640,000	Water Impact Fund
12/3/03-6/30/04	Booster Pump Rehab	350,000	Water Capital Project Fund
12/3/03-6/30/04	Rehab Water Wells	50,000	Water Capital Project Fund
12/3/03-6/30/04	Polybutylene Replace	440,000	Water Capital Project Fund
12/3/03-6/30/04	New Water Mains	120,000	Water Impact Fund
10/3/03-6/30/04	Water Radio Telemetry	580,000	Water Capital Project Fund
10/3/03-6/30/04	Main Ave Well Drllng	320,000	Water Impact Fund
10/3/03-6/30/04	Edmondson Water Tank	330,000	Water Capital Project/Impact

As of today's date, the City has a reasonable expectation that it will reimburse such original expenditures with proceeds of an obligation.

This declaration of official intent is not being made as a matter of course or in amounts substantially in excess of the amounts expected to be necessary for the project.

Mayor

cc: City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: December 3, 2003

Agenda Item # 2

Prepared By:

**Assistant to the City
Manager**

Submitted By:

City Manager

LAFCO FIRE PROTECTION SERVICE REVIEW

RECOMMENDED ACTION(S): Direct staff to submit written comments on the Report agreeing with the Report's suggestions for regional solutions and to participate in the public meetings.

EXECUTIVE SUMMARY: The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 mandates that each LAFCO conduct service reviews prior to or in conjunction with sphere of influence studies and updates. The Santa Clara County LAFCO has chosen fire protection services as the first service area to be studied and the Draft Report has just been released. It provides an overview of the overall fire service provision structure in the County along with profiles of all the agencies/departments that provide fire protection service. It identifies issues related to fire service provision, suggests various options for addressing these issues, and provides a brief analysis of the alternatives. The Report does not specifically make any recommendations. Attached are the Table of Contents, Executive Summary, and South County Analysis from the Report.

The study's findings relating to South County are of particular interest to the City. In short, the issues identified are: 1) The ability of agencies to deliver full first-alarm response; 2) Duplication of Battalion Chief coverage between agencies; and 3) Variances in staffing levels between the agencies providing services to the City.

The four alternatives explored to address these issues include: 1) Creating a new South County Fire District; 2) Creating a new joint powers authority and contracting out to a single entity; 3) Creating a county service area and asking voters to approve a special tax; and 4) Continuing the current system.

City staff largely agrees with the contents of the Report. Per the Council's direction in September, staff are now working on a two-track approach to address the City's future fire protection and emergency medical response service needs. First, we are negotiating with the City's existing providers to extend the services provided to the City. Second, we are exploring the long-term options available to participate in a more integrated regional solution. LAFCO finishing this service review is the first step in this long-term analysis.

LAFCO is holding a workshop on the Draft Report on December 10 and has scheduled a public hearing on a revised Draft Report on February 11. Staff recommends that the Council direct staff to submit written comments on the Report agreeing with the Report's suggestions for regional solutions and to participate in the public meetings.

LAFCO has not yet shared how they intend to use the information developed in the report and how it may impact future requests for annexations and other boundary line changes. In addition to this countywide study of fire protection services, a similar effort is now underway relating to water services and several additional subregional service reviews will be conducted at a later date.

FISCAL IMPACT: While fire protection services remain a significant component of the City's general fund expenses, this review does not, in itself, impact the City's budget.



CITY COUNCIL STAFF REPORT

MEETING DATE: December 3, 2003

EMERGENCY EXPENDITURE FOR JACKSON BOOSTER WATERLINE REPLACEMENT PROJECT

RECOMMENDED ACTION(S):

1. Adopt attached resolution declaring the need for this emergency expenditure.
2. Approve transfer of \$55,000 from CIP Project #615095 to #610093.
3. Approve expenditure of \$55,000 for emergency construction to abandon and replace 575' of 8" waterline above Jackson Booster Station.

EXECUTIVE SUMMARY: The Jackson booster station provides water services to most residents in the Jackson Oaks Area. In the past month, there have been six waterline breaks in the high pressure main above the booster station that required immediate attention by our water operations staff from the booster station uphill approximately 575 feet (see attached location map). The waterline currently has multiple leaks and is in need of immediate replacement.

Due to the apparent deterioration of the waterline, it must be replaced under emergency provisions to avoid the potential for substantial damage to both private and public property from a major break in this high pressure line.

Since the project location is on a hillside, and the time required to publicly bid and award this project would move the project into rainy season (January to April), staff recommends the work to commence immediately in advance of the rainy season.

Staff will consider only contractors with the necessary license and experience to complete the work. The work will begin immediately and should be complete within two weeks, weather permitting.

FISCAL IMPACT: It is recommended that \$55,000 be transferred from CIP project #615095 to CIP project #610093 to provide the necessary funding for this emergency project.

Agenda Item # 3

Prepared By:

Assistant Engineer

Approved By:

Public Works Director

Submitted By:

City Manager

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL
DECLARING THE NEED FOR AN EMERGENCY EXPENDITURE TO
REPLACE THE EXISTING 8" WATERLINE ABOVE JACKSON BOOSTER
STATION IN ACCORDANCE WITH PUBLIC CONTRACT CODE 20168**

WHEREAS, an emergency currently exists since the waterline above the Jackson Oak Booster station has broken six times in the past month due to deterioration of the main; and

WHEREAS, any additional waterline breaks would lead to substantial damage to public and private property; and

WHEREAS, any additional waterline breaks may cause substantial water outages for the residents in the area; and

THEREFORE, BE IT RESOLVED by the City Council of the City of Morgan Hill that it does resolve, determine and order the following:

1. 575 feet of the 8" waterline above the Jackson Booster Station must be replaced under emergency procurement provisions.
2. By at least a four/fifths affirmative vote of those present at the City Council meeting on December 3, 2003, the Council finds, based upon the foregoing reasons, that the immediate preservation of the public peace, health and safety requires said purchase to be made without competitive bids.
3. The sum of \$55,000 is hereby approved for expenditure for the emergency replacement of the 8" waterline above Jackson Booster Station.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 3rd Day of December, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,
do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on December 3, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: DECEMBER 3, 2003

EMERGENCY AUTHORIZATION FOR GUARD RAIL REPLACEMENT AT WATSONVILLE BOX CULVERT NEAR MONTEREY ROAD

RECOMMENDED ACTION(S):

1. Adopt the attached Resolution declaring the need for an emergency expenditure at the Watsonville box culvert near Monterey Road.
2. Appropriate \$27,000 from the 2003-04 Regional Drainage non-AB1600 (304) fund for the emergency guard rail replacement at the Watsonville box culvert near Monterey Road.

EXECUTIVE SUMMARY: Watsonville Road is a major east-west connector for the City of Morgan Hill and endures large traffic volumes during commute hours. The Watsonville box culvert, located approximately 100 feet west of Monterey Road is located 50% within City limits and 50% within County jurisdiction and both north and south guard rails are in need of replacement. The southern guard rail is within County jurisdiction and their staff has indicated to City staff that repair work will be undertaken with County resources.

The City and County are in the process of submitting a joint application for a Hazardous Elimination Safety (HES) grant to widen the box culvert and construct new railings. If the City and County succeed in obtaining the grant, funds would not be available until fiscal year 2005-2006. The guardrail was recently damaged beyond repair and must be replaced under emergency procurement provisions. Work shall commence upon Council's approval.

Our finding of a public emergency to waive the public bidding process requires a four/fifths affirmative vote of the Council.

FISCAL IMPACT: Staff recommend the appropriation of \$27,000 from our unappropriated non-AB1600 Drainage Fund (304) into CIP project #523003, Watsonville Bridge.

Agenda Item # 4

Prepared By:

Associate Engineer

Approved By:

Public Works Director

Submitted By:

City Manager

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL
DECLARING THE NEED FOR AN EMERGENCY EXPENDITURE FOR
GUARD RAIL REPAIR AT WATSONVILLE BRIDGE NEAR MONTEREY
ROAD IN ACCORDANCE WITH PUBLIC CONTRACT CODE 20168**

WHEREAS, an emergency currently exists for guard rail repair at Watsonville Bridge near Monterey Road; and

WHEREAS, unless guard rail is repaired, the potential for more serious accidents exists; and

WHEREAS, the City and County are in the process of submitting a joint application for a Hazardous Elimination Safety (HES) grant to widen the box culvert and construct new railings, but funds would not be available until fiscal year 2005-2006; and

THEREFORE, BE IT RESOLVED by the City Council of the City of Morgan Hill that it does resolve, determine and order the following:

1. Emergency guard rail repair is needed to properly protect the public from a potentially hazardous road condition.
2. By at least a four/fifths affirmative vote of those present at the City Council meeting on December 3, 2003, the Council finds, based upon the foregoing reasons, that the immediate preservation of the public peace, health and safety requires said expenditure to be made without competitive bids.
3. The sum of \$27,000 is hereby approved for expenditure for emergency guard rail repair at Watsonville Bridge near Monterey Road; and

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 3rd Day of December, 2003, by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

🔱 CERTIFICATION 🔱

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on December 3, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: December 3, 2003

Agenda Item # 6

Prepared By:

**Assistant to the City
Manager**

Submitted By:

City Manager

DECLINE OFFER FROM KENDAL HILL OWNERS' ASSOCIATION

RECOMMENDED ACTION(S):

Direct staff to prepare a letter declining the offer by the Kendal Hill Owners' Association to accept a parcel of land.

EXECUTIVE SUMMARY: The Kendal Hill Owners' Association has asked the City to consider accepting a small parcel of land adjacent to Community Park that currently houses the monument sign for their subdivision. This parcel, which is triangular in shape and is depicted on Attachment A, was created to encourage slower traffic on Olympic Dr. While the property does border Community Park, its location relative to the rest of the park and unusual shape prevent it from having any appreciable recreational value. Public access is not provided on the west edge of the park and this area of the park does not receive much use. The Association's request is Attachment B.

Given the City's ongoing fiscal challenges, it is becoming increasingly difficult to maintain the current acreage of City parks. Adding property to the City's park system that will not significantly increase recreational value is not recommended. Furthermore, accepting Kendal Hill's offer could set a precedent for other small parcels throughout the City that are currently maintained by Homeowner's Associations.

Staff recommends that the Council direct staff to prepare a letter for the Mayor's signature thanking the Kendal Hill Owner's Association for their offer, explaining why it is not attractive to the City at this time, and formally declining the offer.

FISCAL IMPACT: No budget adjustment is requested at this time.



CITY COUNCIL STAFF REPORT

MEETING DATE: December 3, 2003

Agenda Item # 7

Prepared By:

Asst. to the City Mgr.

Submitted By:

City Manager

2003-04 HAZARDOUS VEGETATION PROGRAM

RECOMMENDED ACTION

1. **Adopt Resolution** Declaring Weeds and Brush to be a Nuisance and Setting January 14, 2004 as the Date for the Public Hearing Regarding Weed Abatement, and June 2, 2004 as the Date for the Public Hearing Regarding Brush Abatement.

EXECUTIVE SUMMARY:

The City of Morgan Hill has contracted with the Santa Clara County Fire Marshall's Office (FMO) for weed and brush abatement services since 1996. Together, these services constitute the City's hazardous vegetation program. In the last eighteen months, City staff and FMO staff have worked together to streamline program administration and improve communications with Morgan Hill property owners.

As with last year, we have combined the commencement resolution for both the weed and brush abatement programs, and request that you adopt this resolution December 3, 2003. The public hearings for the weed and brush abatement programs cannot be combined, as properties are identified for the weed abatement program in the fall, and for the brush abatement program in the late spring. As you will note, we propose that the weed abatement program hearing take place on January 14, 2004, and that the brush abatement program hearing take place on June 2, 2004.

City and FMO staff continue to work together to improve communication to the public on these important programs. FMO staff solicited and incorporated comments made by City staff on the materials to be sent to property owners in this year's programs. The new materials include references to the recently-adopted protections for burrowing owls.

As we have for the last two years, the City will mail letters directly to property owners informing them of the date of the assessment hearing in July. We think this is the most effective means of notifying the affected owners of the hearing. In addition, alerting the owners of the hearing date via a letter prompts many property owners to contact staff with any concerns. This reduces the likelihood that concerns will be presented for the first time at the assessment hearing.

The Hazardous Vegetation Program helps preserve and improve the high quality of life in Morgan Hill. It also meets important safety concerns by reducing potential fire hazards in Morgan Hill.

FISCAL IMPACT:

The Hazardous Vegetation Program is user fee supported. The per-lot assessment includes costs for doing the weed and brush control work plus the overhead cost to administer the program. The user fees have increased 1.6% compared to FY 2002-03. This increase was provided for in the County's contract with their abatement contractor.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DECLARING CERTAIN HAZARDOUS VEGETATION GROWING IN THE CITY OF MORGAN HILL TO BE A PUBLIC NUISANCE, DESCRIBING PROPERTIES WHERE SUCH NUISANCE EXISTS; ORDERING ABATEMENT AND SETTING A PUBLIC HEARING THEREON.

WHEREAS, the City Council finds that certain weeds and brush are growing in the City of Morgan Hill upon the various streets, alleys, sidewalks and upon private property, which said weeds and brush bear seeds of a wingy or downy nature, or which may attain such growth as to become, when dry, a fire menace, or which are otherwise noxious and dangerous; and

WHEREAS, the Council further finds and declares that said weeds and brush constitute a public nuisance;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL AS FOLLOWS:

1. That the weeds as described in the above recital do now constitute and will continue to constitute a public nuisance, and it is ordered that this public nuisance be abated in the manner provided by Ordinance No. 222, New Series, Title VIII, Chapter 8.20 of the Morgan Hill Municipal Code.

2. That the nuisance exists upon all streets, alleys, sidewalks, and private property within said City as shown, described and delineated on the several maps of the property in the City, which are recorded in the Office of the County Recorder of the County of Santa Clara, reference in each instance for the description of any particular street, alley or private property being hereby made to the several maps mentioned, and in the event of there being several subdivision maps on which lots are shown, reference is hereby made to the latest subdivision map.

3. That it is ordered that Wednesday, the 14th of January, 2004, at 7:30 p.m., in the Council Chambers of the City Council of the City of Morgan Hill is hereby fixed as the time and place when objections to the proposed destruction of removal of weeds shall be heard and given due consideration.

4. That it is ordered that Wednesday, the 2nd of June, 2004, at 7:30 p.m., in the Council Chambers of the City Council of the City of Morgan Hill is hereby fixed as the time and place when objections to the proposed destruction of removal of brush shall be heard and given due consideration.

5. That the City Clerk of the City of Morgan Hill is hereby ordered and directed to cause notice of the adoption of this Resolution and notice of hearing to be given to property owners pursuant to Section 39562.1 of the Government Code.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 3rd Day of December, 2003, by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on December 3, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

**CITY OF MORGAN HILL
SPECIAL CITY COUNCIL MEETING
AND SPECIAL BOARDS, COMMISSIONS, AND COMMITTEES MEETING
MINUTES – NOVEMBER 11, 2003**

CALL TO ORDER

Mayor Kennedy called the special meeting to order at 5:10 p.m.

ROLL CALL ATTENDANCE

Council

Present: Mayor Kennedy and Council Members Carr, Chang, Sellers, and Tate.

Architectural and Site Review Board

Present: Rod Martin, James Fruit

Absent: Yarmila Kennett, Jerry Pyle

Bicycle & Trails Advisory Committee

Present: Alan Clark, Bob Eltgroth, Christopher Hauge, Mark Hubbell, Carl McCann

Absent: Steven Cheu, Mark Frederick

Library Commission

Present: Einer Anderson, Charles Cameron, George Nale,

Absent: Jeanne Gregg, Charles Dillmann, Ruth Phebus, Mary Ellen Salzano, Kathleen Stanaway

Mobile Home Rent Commission

Present: John Liegl, Mark Moore, Robert Graham

Absent: Charles Dillmann

Corporation Yard Commission

Present: Roger Knopf

Absent: Del Foster, George Panos

Parks & Recreation Commission

Present: Don Jensen, Daniel Kenney, Marilyn Librers

Absent: Craig vanKeulen, Mark Frederick, Laura Hagiperos, Rick Page, Amina Khemici

Planning Commission

Present: Geno Acevedo, Joseph Mueller, Robert Benich, Bob Engles, Robert Escobar, Ralph Lyle

Absent: Charles Weston

Senior Advisory Committee

Present: Marilyn Gadway, William Keig, John Bautista, Sharon Leonard, Kenneth Mort, Charles Swann

Absent: Gloria Subocz,

Youth Advisory Committee

Present: Brittany Back, Christopher England, Jonathan O'Mahen, Nick Sign, Lauren Vu and
Katherine Soult (Associate Member)
Absent: Stephanie Chang, Billy Lewis, Christopher Van Keulen, Laynne Tainter

DECLARATION OF POSTING OF AGENDA

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

WORKSHOP:

1. ETHICS, CONFLICTS OF INTEREST, AND EX PARTE CONTACTS WORKSHOP

Mayor Kennedy indicated that the Council recently adopted an *Ex Parte Contacts* policy. He stated the Council appointed him and Council Member Tate, along with City Attorney Leichter, to develop a value-based ethics approach policy for Council, committees and staff to follow to address communication expectation in actions taken. Tonight, the first phase of the ethics policy will be introduced, requesting feedback from those in attendance.

City Attorney Leichter addressed the importance of ethics and the common values that segue into the creation of a policy the Council feels is important to adhere to. She identified the paper work distributed this evening: power point outline; framework for thinking ethically; Council's recently adopted Ex Parte Contacts policy; a draft ethics policy; and a behavioral standards matrix.

Council Member Tate addressed governmental ethics indicating that some governmental officials have gotten into ethical problems based on actions taken with increased heightened general public awareness.

City Attorney Leichter identified the reasons why the City is looking at ethics now: general public awareness heightened; collective reflective discussion, priorities among competing values, positive public identify, and ethical environment. She indicated that the City still has a rules based system in the Political Reform Act, Government Code 1090, Incompatible offices, Brown Act, adopted Ex Parte Contacts policy; and common laws relating to conflicts of interest.

Bob Benich did not believe that the Ex Parte Contact policy should apply to commissioners as he likes to visits sites as it assists him in the evaluation of projects that come before the Planning Commission.

City Attorney Leichter clarified that site visits are acceptable as long as the board, commissioner or committee members discloses Ex Parte Contacts and site visits. The Ex Parte Contact policy simply formalizes this process in order to level the playing field.

Council Member Tate and Mayor Kennedy addressed samples of value-based ethics systems (e.g., Chamber of Commerce and Santa Clara University examples). It was noted that there are a lot of different approaches to the establishment of ethical standards.

Mobile Home Rent Commissioner John Liegl felt that stake holders need to be identified as certain stake holders sometimes get over looked

City Attorney Leichter addressed the crafting of an ethics policy and its substance. She indicated that the policy presented would apply to everyone associated with the city, including volunteers and commission members.

Council Member Sellers felt that the policy should apply to staff, elected officials, boards and commissions in order to create an atmosphere of trust in the community. He suggested that there be leniency for those in advisory levels but felt that all need to act ethically. He stated that he looks forward to disclosing ex parte contacts and site visits partly so that individuals know that one has done their homework.

City Attorney Leichter said that the City Council and staff believe that it is important to visit sites but that individuals have to be cognizant in the disclosing of site visits.

Mobile Home Rent Commissioner John Liegl stated that once a citizen accepts to serve the City in some capacity, they accept being an ethical part of the city. Even though appointed officials are appointed, they have to act in an ethical manner as well.

Council Member Tate stated that the City Council has delegated some decision authority to citizens assuming that the kinds of values and ethical standards the Council are expected to have are being applied by the Council's boards, commission and committees.

Corporation Yard Commissioner Roger Knopf said that the City would like to develop a culture in the policy that projects into the greater community. Therefore, everyone associated with the City, whether elected or appointed, should be held to the same standards.

Planning Commissioner Bob Escobar stated that even though an individual may have formed an opinion, there has to be room for objectivity in the discussion so that there is an opportunity to have this opinion changed. He felt that individuals should be allowed to come forward and help formulate the direction of the City. He felt that individuals may come in with opinions but need to be objective in their evaluation.

Planning Commissioner Ralph Lyle noted that subcommittees are not addressed and inquired whether this policy would apply to subcommittees such as the Urban Limit Line, Measure P Update or General Plan Update subcommittees.

City Attorney Leichter felt that an ethics policy should apply to all subcommittees. She noted that the workshop was being taped this evening and that those commissioners, board, and committee members who are not present this evening may be receiving direction from the Council to view this video. She addressed the suggested ethics policy process. She requested feedback from this workshop and future workshops to help the Council endorse this process.

Mayor Kennedy addressed the core human values of fairness, respect, responsibility, compassion and honesty. Others identified were forgiveness, cultural/diversity, community interest versus self interest, caring, leaving a positive legacy, giving back to the community, intellectual capacity, patience, and tolerance.

Council Member Tate addressed the following public sector ethical values: professionalism, service oriented, fiscally responsible, organized, collaborative, visionary, loyalty, and ethical. Others identified were: trust worthy, honest, truthful, impartial, equity, respectful, caring, taking time & delivering, thoughtfulness, team player, respect for process, perception, structure, temperance, consensus building, idealism, sense of humor, stick to your guns but do no harm, doing what is best for the community, and know when to stop.

Mobile Home Rent Commissioner Mark Moore felt that the following traits could be included in an ethics policy: independence, self driven and self directed.

Senior Advisory Committee Member Ken Mort felt that a good chart would be labeled as “core public attributes” as the terms “collaborative” and “organized” are not ethical traits.

Mobile Home Rent Commissioner John Liegl felt that being organized addresses respect of peoples’ time and that respect is an attribute of “ethics.”

Youth Advisory Committee Associate Member Katherine Soult suggested that temperance and not letting your subjective views let you get carried away were ethical traits.

Planning Commissioner Lyle felt that ethical values were good but that you should not have blind adherence to the qualities.

Mayor Pro Tempore Chang addressed the issue of holding individual values by voting conscious, even if you are not voting with the majority. She stated that she would need to do what is necessary to try and stop an action from taking place.

Council Member Tate said that there has to be mutual respect for individuals and the direction the majority of the group is heading.

Mayor Kennedy said that the City needs a statement that will address when it is time to let go when a majority of the Council is ready to move forward.

Planning Commissioner Bob Escobar felt that even if there is a 4-1 vote, the process is still working. The process allows for dialogue and difference in views on what is being presented. He felt that an individual has a right to disagree, holding on to their views and not compromise their own integrity where they come from as long as they do not do anything inappropriate to preclude the action voted upon by the majority. Individuals need to be mindful to protect the rights of individuals. Individuals have a right to disagree and carry out their disagreement as long as it is not inappropriate and does not violate the law.

Council Member Sellers felt that it was important to make sure that all view points are considered and respected.

Council Member Carr stated that you can try to remain true and loyal to your interest and yet remain respectful to colleagues, staying within the process to be able to make a decision. If you do not, you no longer have a process or free government.

Bicycle & Trails Advisory Committee Member Chris Hauge said that you may create a problem when there is discontent. You have to weigh how much harm will be created from the good you are trying to accomplish.

Parks & Recreation Commissioner Don Jensen noted that the City Council, boards, commissions and committees are made up of individuals who perceive what is good for the community. He felt that once a majority decision is made, you have to let go and move on to the next issue. Should an individual go back to an interest group and state that the majority of the body was wrong, harm is being done.

Mayor Pro Tempore Chang said that democracy is “majority rules” but not at the expense of the minority’s rights.

City Attorney Leichter said that parts of an ethics policy addresses accountability. She said that the ethics policy is before the boards, committees and commissions to address one core policy – ethics. She said that two documents that the Council would like to be put forward for consideration are the draft ethics policy and the behavioral standards matrix. She indicated that those interested in continuing with the process are invited to attend a workshop to be held in December.

Mayor Kennedy stated that the meeting started out with some general ideas from other cities and entities and that the feedback received this evening has been helpful. The Council will need to continue the process and have a follow up workshop in order to develop a document that everyone will buy into.

Council Member Tate requested that boards, committees and commissions read the behavioral standard matrix. He felt that meaningful conversations can be brought forth in order to determine where the City wants to go with regards to developing an ethics policy that will be adopted; one that everyone will buy into.

Action: *No Action Taken.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor Kennedy adjourned the meeting at 6:48 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK

**CITY OF MORGAN HILL
SPECIAL CITY COUNCIL MEETING
MINUTES – NOVEMBER 19, 2003**

CALL TO ORDER

Mayor Kennedy called the special meeting to order at 6:16 p.m.

ROLL CALL ATTENDANCE

Present: Council Members Carr, Chang, Sellers, Tate and Mayor Kennedy

DECLARATION OF POSTING OF AGENDA

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Mayor Kennedy opened the floor to public comment for items not appearing on this evening's agenda. No comments were offered.

CLOSED SESSION

City Attorney Leichter announced the following closed session item.

1.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority:	Government Code section 94956.9(a)
Title:	Bob Lynch Ford v. Timothy Paulus, et al.
Case Number:	Santa Clara County Superior Court Case No. 1-03-CV0001657

OPPORTUNITY FOR PUBLIC COMMENT

Mayor Kennedy opened the Closed Session item to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor Kennedy adjourned the meeting to Closed Session at 6:18 p.m.

RECONVENE

Mayor Kennedy reconvened the meeting at 7:05 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney Leichter announced that no reportable action was taken in closed session.

ADJOURNMENT

There being no further business, Mayor Kennedy adjourned the special meeting at 7:06 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK

**CITY OF MORGAN HILL
JOINT SPECIAL CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – NOVEMBER 12, 2003**

CALL TO ORDER

Mayor/Chairperson Kennedy called the special meeting to order at 6:03 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Sellers, Tate and Mayor/Agency Chairperson Kennedy

Late: Mayor Pro Tempore/Vice-chair Chang (arrived at 6:25 p.m.)

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comment for items not appearing on this evening's agenda. No comments were offered.

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Sellers, the Council/Agency Board, on a 4-0 vote with Mayor Pro Tempore/Vice-chair Chang absent, **Approved** Consent Calendar Item 1, as follows:*

1. **JOINT REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES OF OCTOBER 22, 2003.**

Action: ***Approved** the Minutes as written.*

City Council Action

CONSENT CALENDAR:

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Mayor Pro Tempore Change absent, **Approved** Consent Calendar Items 2 and 3, as follows:*

2. **ADOPT EMERGENCY EXPENDITURE RESOLUTION NO. 5672 FOR LEASE OF ION EXCHANGE SYSTEM TO BE INSTALLED AT TENNANT AND NORDSTROM WELLS**

Action: **Adopted** Resolution No. 5672, Authorizing Emergency Expenditure for Lease of Ion Exchange System to be installed at Tennant and Nordstrom wells.

3. **SPECIAL CITY COUNCIL MEETING MINUTES OF OCTOBER 31, 2003**

Action: **Approved** the Minutes as written

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Agency Member Tate and seconded by Agency Member Sellers, the Agency Board, on a 4-0 vote with Mayor Pro Tempore Chang absent, **Approved** Consent Calendar Item 4, as follows:*

4. **GROUND LEASE FOR MORGAN HILL COURTHOUSE**

Action: **Approved** Ground Lease with the County of Santa Clara.

Redevelopment Agency Action

OTHER BUSINESS:

Business Assistance and Housing Services Manager Maskell presented the staff report. She indicated that the Redevelopment Agency was presented with this topic on August 20, 2003, directing staff to return with this item in a study session. She informed the Agency Board that at the previous meeting; Conley Consulting presented a phase I report for the Morgan Hill Plaza repositioning strategy. The Redevelopment Agency gave staff four alternative strategies to consider. She said that staff is trying to provide the Redevelopment Agency with enough information so that it can provide staff direction, and set the parameters for the repositioning strategy, discussing the next step(s).

Denise Conley, Conley Consulting, requested Agency direction regarding the Morgan Hill Plaza Shopping Center as it is in bad shape. She indicated that the problems at the center are worse

than originally thought at the beginning of the strategy. The issue for the Morgan Hill Plaza such that it needs to be repositioned or re-done. The problems faced by the shopping center are: loss of anchor tenants, Albertson store would like to relocate, high vacancies, limited patronage, poor layout/visibility, and the appearance of the center. It was her understanding that the residential use, within the confines of the center, is not part of the retail center. She indicated that the apartments look a lot better than they did but that it does not contribute to the retail environment. She indicated that a market study does not suggest a lot of opportunity for this particular site. She said that there is evidence that there are anchor tenants looking for sites in Morgan Hill but that they are seeking freeway locations or areas where the largest population is located. She indicated that this center serves a limited trade area. There are market opportunities that exist for this center to be fully functionally such as complimenting the Downtown Plan, serving the immediate neighborhood, or developing a mixed use with limited comparison goods. She said that the likely future for the center could include loss of anchor tenants. She indicated that there is a split ownership of the shopping center with seven different owners; therefore, the economics are strange. She said that the location of the shopping center, in relationship to the Community Center and the downtown, makes a statement of what might be invested in this area. She expects that if the Albertson's store finds a different location and relocates, the kind of tenants that may be expected would not improve the performance or customer draw of the center (e.g., 99 Cent Store, discount store, 24-Hour fitness center). What would result is a reduction in rent but that she did not believe that the center could pick up.

Ms. Conley identified options and estimated costs associated with the shopping center: 1) converting the site into a public use facility, complimenting the Community Center located across the street into such uses as a civic building, police facility or school (cost estimate would be \$8-\$11 million for site acquisition plus relocation and costs for public use); 2) Redevelop the entire site for retail uses (\$7-\$11 million for acquisition plus relocation and incentives for anchor tenants); 3) Redevelop the site as a mixed use with residential and commercial uses (\$8-\$11 million for site less value from sale of land); 4) Take position of key parcels to make them catalyst for the center (\$1.5-\$3.5 million plus key tenant incentives and possible relocation costs); or 5) Conduct a facelift of the shopping center – clean up/modernize the facade and improve signage (\$0.5-\$1.5 million). She indicated that Rite Aid holds a lease with a property owner and that Albertson's store also holds a lease on a month to month basis with a property owner.

Agency Member Tate noted that the first option can be done with the use of eminent domain by the City and not the Redevelopment Agency and that the last option would not require eminent domain. Options 2, 3, and 4 would require eminent domain on the part of the Redevelopment Agency. He noted that the Redevelopment Agency does not have the authority to exercise eminent domain. He did not understand why options are being factored into the decision because the Redevelopment Agency cannot pursue eminent domain.

Chairman Kennedy said that an option would be to extend the Redevelopment Agency. He inquired what time frame is being talked about.

Ms. Conley indicated that a plan amendment or extension would take approximately 9 months to one year but can take longer. She acknowledged that there are small resources available and a set of economic interests who do not want to make the changes that need to take place. She said that this discussion needs to take place before proceeding.

Agency Member Tate felt that Ms. Conley did an excellent job explaining why the Agency needs to look at the shopping center as it is not a vision that the City wants to see as an entry into the community. He did not know why the City should spend a lot of time getting its hopes up in fixing a problem when the City does not have the ability to fix it.

Mayor Kennedy felt that this was a discussion for the Agency Board to undertake, noting that Ms. Conley has laid out several options for the shopping center. While it may be true that the City may not be able to move forward at this time, it may be possible to act on alternative(s) at a later date.

Agency Member Sellers said that the City has never used eminent domain in an aggressive or negative way. He said that eminent domain was used as a tool that made sense in a positive way where a property owner might have some concerns. By using eminent domain, there may be some tax incentives or other possible outcomes that property owners receive from this action that would result in entering into negotiations. He inquired whether there were property owners who were in the middle of doing something with the center for which the City can provide incentives.

Ms. Conley stated that all property owners have different interests, indicating that there was some push back from property owners as they believe that the shopping center was right for the Morgan Hill market. Property owners do not believe that this was an upscale community and that this is the right product for this market. She said that there are seven property owners with seven different interests/responses. One person was adamant that there was not a problem and requested to be left alone only to return at a later date to state that he/she may be willing to sell. The City could state to property owners that there are benefits to enhancing the shopping center. She indicated that there are not a lot of cities in California or most of the country that have a lot of extra money. She stated that all communities are making choices and trying to prioritize their choices. She inquired whether this was an important choice for the City and for this community to fix this center. She said that there will not be much opportunity for spontaneous improvements to the center as there are multiple property owners involved.

Agency Member Carr said that the shopping center, as it is today is not a high priority but that what is of high priority is the center tomorrow. He agreed that the center will not get better on its own and will get worse. He said that this has been a proactive and progressive Council/Agency in trying to make sure that it looks ahead, solving problems that will occur so that they do not become more expensive or a bigger problem in the future. He felt that this was an opportunity to control the situation before it gets worse, and the City will have no idea what to do with the center or a way to fix it until outside influences come in. It is known that freeway areas are becoming popular, will draw away from the downtown and that the City needs to try to avoid this from happening. He felt that the mix of the center in the future will be something

different and that the City needs to start mapping this out now. The City can help to define what this would be and be a part of its improvement versus watching the center continue to spiral downward. If so, the City or someone will be forced to do something.

Chairman Kennedy noted that Ms. Conley identified the problems associated with the center: loss of key anchor stores, high vacancy rates/low space fronts and lack of variety in services. He felt that the location would allow for additional services than are currently being provided. He did not want to take away from services existing but felt that a lot more can be done for the center. He felt that the center detracts from the downtown as there are a lot of vacant spaces and the site is run down. The center's appearance detracts other businesses from relocating to the downtown.

Agency Member Tate stated that with the exception of the ice cream store, there is nothing in the center that complements the downtown.

Agency Member Sellers felt that there were a lot of viable businesses for the center such as restaurants. He noted that Ms. Conley alluded to key parcels and drew design settings from the corner of Dunne and Monterey, working the design inward. He noted that the apartments and the gasoline station made it difficult to develop the entire site.

Ms. Conley indicated that she looked at these two sites as becoming one possible strategy and taking control of the anchor sites as another possible strategy. She said that it would be possible to take control of the anchor site and bring in a use that was interested with the use of incentives. She indicated that the Albertson's site is a visible site and would be a bigger driver.

Agency Member Sellers said that he hears from the community that the City lacks a higher end specialty grocery store.

Ms. Conley said that it is difficult to attract higher end grocery stores. She noted that the gasoline station located at the northwest corner of Dunne and Monterey does not look quite as bad as the gasoline station located at the corner of the shopping center. She said that the existing gasoline station blocks what is located behind it.

Agency Member Tate agreed that the problem is not necessarily today's problem but more tomorrow's problem. He said that it is a situation where you have to improve the center before it gets worse, and finding funds to fix the center.

Vice-chair Chang said that if she was a property owner who will have an anchor building sitting vacant soon, she would be knocking on the City's door for assistance. She noted that the City is not being sought for assistance. If there was a different owner for the shopping center, they might fix the problem themselves. She said that once Rite Aid and the Albertson's store are no longer paying rent, the property owner would need to do something with the property as they would not have income coming in. She felt that it would be the property owners' responsibility to take care of their shopping center so that they have income coming in.

Ms. Conley said that one of the buildings that may be vacated is the Albertson's grocery store as they are paying rent on a month to month basis. She indicated that Rite Aid has a lease that has to be honored. She said that the Rite Aid building has been a problem for the community and the center because it has been sitting vacant. She reiterated that there are separate owners for the Rite Aid store, the Albertson's grocery store, the liquor store and for most of the small shop spaces. She said that the owner of the small shop space has an incentive to try to make the shopping center work better as this company will bear the impact with the loss of anchor stores.

Agency Member Sellers noted that the property owners are receiving income without making a lot of investment to the center. Therefore, you will see a perpetual situation where the shopping center would constantly be going down to the next level because property owners can make money without making improvements.

Ms. Conley agreed that there is a low investment incentive by property owners. She indicated that it was her belief that the Rite Aid lease would end within the next year. She indicated that the incentive to improve the center would change as the income goes away.

Vice-chair Chang indicated that the situation is similar to what is being experienced at the Tennant Station Shopping center in that the Longs Drugstore is still paying rent for a vacant building. She inquired whether the City has the capability of doing something and how long does the City has to wait before it does something?

Agency Member Carr stated that he does not want to go through a situation where a building remains vacant for a period of time in a shopping center that is part of the downtown, and is kiddy corner to the Community Center. He noted that the shopping center is named after the City and that the City has an opportunity to do something with the center.

Agency Member Tate felt that Ms. Conley was trying to walk the Agency through a process where it figures out what it wants to do without paying attention to whether it can be done or not.

Chairman Kennedy felt that it may seem impossible but that the City needs to come up with a plan and then figure out how to meet this plan. He stated that the action plan may take time before it can move forward.

Ms. Conley indicated that most users are in this shopping center because of the low lease rates and not because of its location.

Chairman Kennedy inquired how the relocation of a 99 Cent Store or a 24-Hour fitness center affects the vision for the Downtown Plan.

Agency Member Sellers recommended that improvements be conducted in two or three phases. He said that the first decision would be to figure out whether there is a public facilities component that the City would be interested in at the front corner. He noted that last week, the

City had a long discussion about the library situation. Because of the library situation, it is causing rethinking of the expansion or location of city hall and other public facilities. He recommended that the facility be given full consideration and that at the same time, the City start to look at key properties located at the corner and anchor tenant(s) as the first phase. He said that in a perfect world, the shopping center could be reconfigured, making sure that existing tenants and viable businesses are located within the center and making all changes needed. However, he noted that the City does not have the financial resources to do so. He felt that long term, focus should be given to the corner spaces and establishing a development plan for key anchor tenants. The City can determine whether it wants to occupy part of the facility or whether the City wants to give incentives to the free market to take care of and develop a better center. He felt that this would be a parallel course of action to take. The center can proceed with short term improvements and that a long term approach can be developed so that everyone is aware of where the City would like to go in the future.

Chairman Kennedy said that it is extremely important that something be done with this shopping center. He noted that the City's sales tax base is very low in comparison to comparable cities of Morgan Hill's size. He stated that an important goal would be to build the City's sales tax base. If the City does not do something with this site, it would be missing a golden opportunity. He said that it was critical that the City utilize this site as it is at ground zero for commercial retail opportunities or something that would provide sales tax revenue to the City. He felt that the shopping center should provide services that the residents would like to see.

Agency Member Tate felt that the shopping center should have a catalytic affect to the downtown.

Vice-chair Chang agreed that sales tax dollars need to be generated. However, she felt that the kind of stores that would come to the City to generate sales tax dollars would want a freeway location such as the corner of Cochrane and Highway 101. She felt that the goal for the shopping center should be to create a civic center, connecting the center with the City and the community center. She said that a grocery store could support civic activities. She did not believe that this was a good site to generate sales tax, especially if it is a 99 Cent Store that wants to locate in the center.

Chairman Kennedy stated that it is not the location, but the facility that exists today that is not a "class one" area.

Ms. Conley agreed that a site along Highway 101 would provide higher visibility and traffic flow. She stated that the layout of the center is atrocious. She said that the existing parking is a standard approach for this type of shopping center layout. Businesses want to see a certain amount of parking around the radius of the front door. She did not believe that parking is a problem but under utilization of the uses is the problem.

Agency Member Carr noted that Ms. Conley mentioned mixed use as an option and that this is of interest to him as this site can accommodate some type of mixed use. However, a mixed use

project would present a problem with the City's Residential Development Control System (RDSC) ordinance. He noted that the Council is suggesting an update to the RDSC; including set asides for mixed uses that may help the process. He recommended that the City explore the feasibility of mixed uses for this site. He said that it seems that a lot of the problems being discussed stem from the fact that there are several owners who are across the board with their thoughts on the center. He noted that the City is having problems bringing property owners together to find solutions to some of the problems. He recommended that the City focus on finding ways to demonstrate that there are benefits for investing in the center by all property owners. He did not know if this would result in the creation of a benefit assessment district or other opportunities. This would allow all property owners to invest in the future of the center in a way that benefits the entire center.

Ms. Conley said that the City would need to find a way to make it economically attractive for the property owners to participate in payments for improvements as benefits and costs need to be shared. She said that one way that this could be accomplished is through a benefit assessment district. The City could put together a corporate agreement between the owners, with the Agency acting as a facilitator, for securing said agreement. Regarding the issue of mixed use, she said that if a decision has been made that the retail is not as important but that it was important to have the center look better and function better, thought can be given to proceeding with residential development. This would result in a lower amount of retail sales or lower impact type retail uses associated with residential on top of retail.

Chairman Kennedy stated that he would favor the development of a priority list for this site similar to what was done for the City's medical service strategy that had a goal of a full acute hospital. He identified his priorities for the site as follows: 1) a mixed use project consisting of retail and residential; 2) a new retail shopping center; or 3) greatly revamped/upgraded center without the gas station and the residential in front. This would result in relocating or acquiring the apartment building and gas station site; converting these sites to something that would be more compatible with the location. He noted that Agency Member Sellers and Vice-chair Chang also want to look at public uses.

Ms. Conley indicated that the City of San Fernando had a historic downtown with one function and a different population base that was being unserved in town. This population drove miles to obtain the service they wanted. However, they developed the Library Square that has a small amount of retail with it. It is a place where everyone comes after school. The Library Square is a public meeting place attributed to the library, coffee shop, and other uses around it that make it work well.

Agency Member Sellers said that there are a variety of viable businesses in the center and that the biggest concern is that they do not always have landlords who are willing to help them do things that would improve their businesses. He felt that by using incentives it would help turn the center around. He did not believe that anyone was suggesting that the shopping center develop from ground zero because it is not viable or the interest may not be there.

Chairman Kennedy felt that a library with some retail associated with it may be a viable option. He did not believe that the Council/Agency should give up on ideas because the City does not have the resources.

Agency Member Sellers said that the challenges are ones previously discussed. He felt that residential is viable; one that is becoming more uniquely attractive, but felt that the existing residential is in the wrong place. He recommended that the City figure out a way to place the existing residential in a more appropriate location. The other challenge the City will face is the liquor store as it is a viable business and is located in a key location. He did not believe that this use would fit well with the library or other uses. He recommended that the City continue to consider public facilities as a part of the center.

Vice-chair Chang did not believe that a face lift or major renovation would assist the center. She felt that this would be a good site for high density residential to the rear with some commercial in the front, similar to a transit village development. Another option is a civic use (e.g., City Hall).

Ms. Conley identified what can be accomplished with ranges of funding; depending on the degree of changes the City would like to see take place with the shopping center.

Agency Member Sellers recommended that the City look at the reconfiguration option but not eliminate the public use option. He further recommended using incentives to encourage mixed use development, identifying funds for building certain public facilities (e.g., leveraging public investment on the site).

Chairman Kennedy stated that he understood that a library is a possible option. He recommended that the library subcommittee take a look to see if this site is large enough to be feasible for a library, including costs. He inquired whether there were any other public facilities that would work.

Agency Member Sellers said that there have been long term discussions about the relocation of city hall. He felt that there are benefits to relocating city hall as the City is one of the largest employers in Morgan Hill and would provide a base and a significant incentive to the downtown. He felt that relocating city hall would be worth considering.

Agency Member Tate felt that mixed use makes sense with high density housing to the rear and commercial up front. He did not believe that it would be necessary for a mixed use development to have residential on top of commercial.

Vice-chair Chang said that Milpitas, San Mateo and San Rafael have their city halls on a corner with commercial adjacent to it and that employees have access to downtown restaurants.

Agency Member Carr was not sure that structural mixed use should be eliminated. He said that mixed use would be difficult; but that it should still be an option to consider. He envisions an option where someone would develop for sale housing that provides the revenue to improve the

rest of the center. Going through the process and attaining financing can prove to be difficult but that it was not an option that should be eliminated this evening.

Chairman Kennedy felt that the City needs to conduct a process to evaluate what public uses might or might not be appropriate. He said that there is a question of whether the City should invest some funds into conducting an evaluation of public uses on this site, noting that it would take time to conduct the evaluation.

Chairman Kennedy opened the floor to public comment.

Bill Fritz, Data Star Communication, stated that the loss of the Charter School resulted in the decline of sales. He said that he would support any use that would draw people to the downtown. He stated that a nice restaurant at the corner in conjunction with a nice grocery store, improving the appearance of the corner would help. He felt that residents would walk to the center and that a public use may be beneficial.

Dan Craig, Downtown Association, supported complementary uses to the downtown retail uses and that the City be careful not to setback the downtown. He felt that the report contained great information but felt that a lot of times the analysis is in the absence of impacts to the downtown. He did not support the relocation of the same types of uses seen in the downtown. He recommended that the shopping center be the overflow area of the downtown and that there be no vacancies. Anything that is already being targeted in the downtown through the Downtown Plan should be carefully looked at, especially if there are to be subsidies or incentives to turn the center around. He felt that the center has the potential of providing uses that are not available in the downtown. He did not believe that the shopping center was considered to be in the Downtown Plan area. He felt that the large busy intersection creates a mental separation between the core downtown to what can be considered strip development. He stated that the shopping center has the potential of doing things that cannot be done in the downtown area.

Agency Member Sellers stated that the layout of the center and the existing businesses are different from what can be seen in the downtown. He said that anchor tenants would help to bring traffic to the downtown. He felt that Mr. Craig made a good point and that the City should be cognizant of it.

No further comments were offered.

Ms. Conley inquired whether the lower cost options are ones that the Agency Board feels would be satisfactory to proceed in correcting the problem/condition of the plaza.

Chairman Kennedy said that reconfiguring the center would just delay taking a broader approach to fixing the problem and could be expensive. He stated his support of acquiring the gas station and relocating the apartment building as the first steps. He recommended looking at possible public uses, a mixed use project with retail and residential, or a new shopping center such as a

privately invested shopping center with some incentives provided by the City to help attract large anchor tenants.

Agency Member Sellers said that in the short term, the City is interested in doing something, noting that the resources are not necessarily in place. He said that reconfiguring a significant part of the shopping center would eliminate options.

Agency Member Tate stated that he did not have a comfort level that the owners want to do something. He said that he would support a public use, noting that a library is needed somewhere in the community. However, he did not know if a library would work in this center. He is also looking at a mixed use with a large portion being residential as the City has funds for housing projects. He did not know where the funding would come from to pursue other alternatives. He felt that there has to be a way to incent property owners.

Chairman Kennedy inquired whether RDA housing funds could be used for market rate housing.

Executive Director Tewes stated that 20% set asides must be used to improve or expand the supply of housing to moderate income individuals.

Vice-chair Chang felt that 2-3 bedroom condominium/townhomes could fit nicely in this area.

Chairman Kennedy said that one of the criticisms he has heard about some of the housing projects in the downtown is that the City is building all affordable housing but no market rate housing near the downtown. He felt that the City needs to cover all ranges of the household income spectrum. He is hearing that the 20% RDA funds can be used for up to 120% medium income homes.

Executive Director Tewes said that when the City developed a housing strategy, there were a number of competing policy objectives. The City needs to meet housing production goals for the various categories of income, noting that these have been identified in the housing strategy document. He agreed that moderate and market rate housing are needed in the community but that the City needs to achieve its objectives in the other housing income categories as well.

Agency Member Carr stated that it is difficult for the Agency Board to make a policy decision on how much money it wants to invest, spend, and/or allocate. The City needs to find ways to incent the current property owners to perform some improvements to the center. The City needs to investigate how it can bring in other private partners to proceed with some of the grand alternatives being talked about. He was not comfortable in limiting the scope in anyway except of the “do nothing” alternative. He felt that the City could at least facilitate conversations with the current owners to improve some things such as signage and landscaping. The City needs to make sure that its investment will pay off. There is a question as to whether face lift dollars will bring in revenue. He did not believe that the City would have to invest as much if it can partner with others and develop a public use; improving an important key area. He felt that the definition

of “we” needs to be broadened to how much should be spent on the center in different ways with dollars coming from different sources.

Chairman Kennedy inquired whether this type of project fits the criteria that the Economic Development Committee is looking at for use of economic development funds.

Agency Member Tate inquired whether the downtown is a higher priority or whether this site is a higher priority. He felt that it was a priority question but that the shopping center fits within the economic development strategy adopted by the Council/Agency.

Agency Member Carr indicated that the Economic Development Committee is not working on this shopping center at this time.

Chairman Kennedy recommended that some economic development funds be earmarked for this shopping center.

Agency Member Tate said that he would support earmarking economic development funds as long as it does not impact the library funding.

Agency Member Sellers indicated that there appears to be a general consensus that the Agency Board is interested in reconfiguring the shopping center to some degree. He agreed with Agency Member Carr in terms of figuring out options and partnership opportunities, property ownership or a combination thereof. He recommended that an initial focus be conducted on the corner properties (e.g., gas station and apartment complex). He recommended consideration be given to public uses and to earmark initial funds.

Ms. Conley inquired if an extension to the Redevelopment Agency’s life was a discussion that the Agency Board would like to consider for this project.

Chairman Kennedy felt that the City should keep the extension of the Redevelopment Agency option open. He likes the idea of having a “wish list” of what the City’s priorities are. It may turn out that the City would like to extend the RDA to do something that is more grandiose. He would like the Redevelopment Agency to play the role of facilitator and lender.

Agency Member Sellers felt that there is an interest in keeping the Agency’s options open, depending on what the market dictates. He said that there is a potential for the Agency to play all three roles: facilitator, lender and assembler of the parcels; conveying them to a master developer.

Agency Member Tate stated that he did not want to be a middle man just for the sake of being the middle man. He said that the third option is beyond where he would like to participate. He indicated that he has trouble discussing this issue in such a vacuum. He noted that the City has talked about loans to the downtown, including re-circulating loans. He did not know where the money for this site would come from.

Agency Member Sellers noted that the Agency Board has not decided what it wants to do; therefore, it cannot identify funding sources.

Vice-chair Chang felt that the first process is to decide what the Agency Board wants to do. This process does not identify the funding to be earmarked for this center. The Agency Board needs to decide how the site is to be improved and/or developed and then figure out whether it has the money to proceed. It may necessitate proceeding with a Redevelopment Agency extension.

Chairman Kennedy noted that there appears to be a general consensus of the Agency Board to support a mixed use project and to evaluate a public use. There is also thought of reconfiguring/upgrading the center as a priority up to the City's ability to assist.

Agency Member Sellers stated that it was his hope that the Agency Board has given staff enough direction such that it explores specific directions. Staff to talk to the property owners and that the City is facilitating discussions about downtown in parallel. He said that the City can continue the broader discussions as the project evolves.

Agency Member Tate did not believe that the Agency Board has given staff adequate direction.

Ms. Conley said that she heard that a facelift is off the table.

Chairman Kennedy stated that on the table is the concept of a private investment of a new shopping center with some sort of lending facilitation by the RDA with a cost to be determined.

Mr. Toy said that it would be helpful to know if the direction of the shopping center is one that the entire Agency Board wants to discuss or whether it wants the Economic Development Committee to work with staff to come up with options for Agency Board consideration.

Executive Director Tewes said that Library Subcommittee and Economic Development Committee should consider funding options for Agency Board consideration.

Chairman Kennedy requested that staff investigate how much it would cost to assist/incent a private developer to come in and redevelop the entire center.

Agency Member Tate said that there may be a possibility of finding a solution to address the corner of the property, resulting in a domino affect beyond that.

Executive Director Tewes indicated that it would cost \$8-11 million to purchase the entire center plus relocation costs.

Chairman Kennedy felt that a plan needs to be developed within six months. He felt that the Economic Development and Library Committees and staff can take a look at this site. In six months, the City can take this to the next step, developing towards a plan.

Agency Member Carr said that one key factor to know is what would be the future of the site after Albertson's moves out. If it looks like that the property owner is ready to sign a deal with someone else, the City would lose out and lack the ability to do anything with the center. He felt that the City needs to be ready to step in and not let opportunities pass by.

Agency Member Chang said that a 99 Cent Store may not be an ideal use, but if the property owner can bring in a Traders Joes or Millers Outpost, it would be an improvement to the center and the face lift alternative may work.

Chairman Kennedy requested that staff find out the value of the Albertson's building so that the Council/Agency can determine if it is an option it would like to proceed.

Agency Member Sellers said that it is eminent that the Albertson's store would be leaving the shopping center within the next 36-months. He recommended that the City enter into discussions with the property owners and that the City conduct an appraisal of the property.

Vice-chair Chang inquired what could be done with the Albertson's property should the City decide to purchase it.

Ms. Conley responded that the City would be acquiring a vacant building. The building can be leased to other tenants or the site can be redeveloped for public use. As the building would be vacant, there would be several options.

Chairman Kennedy noted that the City is not starting the process of acquiring the Albertson's store or the shopping center. He felt that the City should look at the possibility of purchasing and protecting this option. He offered the idea of having a roller rink or a similar recreational use in the large vacant spaces.

Vice-chair Chang felt that a recreational use would be a good use. However, the City needs to find out why the Gilroy roller rink did not work.

Executive Director Tewes noted that there are public recreational uses such as those proposed for the indoor recreation center and that there are commercial recreational uses such as a commercial roller rink. He said that there are new concepts being developed such as an indoor roller hockey or indoor soccer use. He stated that indoor recreational uses can be investigated.

Chairman Kennedy requested that staff return with a plan in six months. Further, the Library and the Economic Development subcommittees look into the economic development aspects with consideration being given to other public uses.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 8:00 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY



REDEVELOPMENT AGENCY

MEETING DATE: *December 3, 2003*

Agenda Item # 11

Prepared By:

BAHS Analyst

Approved By:

BAHS Director

Submitted By:

City Manager

REALLOCATION OF LOAN FUNDS FROM MURPHY RANCH I TO MURPHY RANCH II

RECOMMENDED ACTION(S):

- 1) **Approve** a loan increase of up to \$1,570,000 for Murphy Ranch II, but only to the extent that sum is repaid from the existing Agency loan on Murphy Ranch, phase I.
- 2) **Authorize** the Executive Director to modify and execute loan documents as required, provided the approved loan amount is not exceeded.

EXECUTIVE SUMMARY:

Murphy Ranch is a 100-unit affordable housing project being built in two phases. In February, 2002, the Agency lent \$5,290,000 to First Community Housing (FCH) for the Murphy Ranch project. The loan was divided and allocated to each of the two phases when the lot was split. Approximately \$3.45 million was allocated to the 62-unit first phase of Murphy Ranch, while the balance of \$1,836,574 was allocated to Murphy Ranch II for the final 38-units.

FCH was able to obtain more permanent financing than construction financing for phase I. It was their intent to take those "excess" Agency construction funds and use them on the construction of Murphy Ranch II. Staff's intent has always been to fund the entire project with the monies committed in February, 2002. The phasing of the project and affordable financing constraints forced the creation of two ownership entities and the need to split the loan between them. Murphy Ranch, LLC (phase I) must now pay down their loan so that the funds they repay can be lent to Murphy Ranch II to complete the construction financing. The total transfers will approximate \$1.57 million, but no additional Agency funds are required.

One of the goals of the Murphy Ranch project was to provide for income diversity. In order to maximize use of all available funding sources in phase I, FCH restricted household incomes to a range of 22% through 60% of area median. The overall income average for phase I is 43.2%. In Murphy Ranch II rents will be between 50% and 60% of median with an overall average of 55.8%. This represents a potential annual income spread between \$16,250 and \$68,350 when adjustments for family size are made. While FCH was originally willing to seek even higher rent levels, such a quest in today's financial market could actually result in a reduction of funds available and the need for additional Agency financing. Furthermore, local market rents range very close to the 60% restricted rents, so an attempt to raise rents could create a marketing problem.

The loan for Murphy Ranch II would continue in its current structure as a 55-year permanent loan at 4% simple interest, paid from residual receipts.

FISCAL IMPACT:

The amount and terms of the Agency loan do not change. Only the allocation of funds between the project phases will change.



CITY COUNCIL STAFF REPORT

MEETING DATE: December 3, 2003

APPEAL APPLICATION, AP-03-05: JARVIS – MORGAN HILL DEVELOPMENT PARTNERS

RECOMMENDED ACTIONS:

Adopt Resolution approving appeal.

EXECUTIVE SUMMARY: The Morgan Hill Development Partners (Venture Corp) is appealing the Planning Commission's approval of use permit application, UP-03-07: Jarvis – Generations Foursquare Church, allowing a church use in a ML, Light Industrial Zoning District.

At the November 19 meeting, the Council approved the appeal by a 3-2 vote, thereby overturning the Planning Commission's approval of the conditional use permit. The item was continued to the December 3 meeting to allow Staff time to prepare an approval Resolution which incorporates the appropriate findings.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item # 12

Prepared By:

Associate Planner

Approved By:

CDD Director

Submitted By:

City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING APPEAL APPLICATION AP-03-05: JARVIS – MORGAN HILL DEVELOPMENT PARTNERS AND OVERTURNING THE PLANNING COMMISSION'S APPROVAL OF USE PERMIT APPLICATION, UP-03-07: JARVIS – GENERATIONS FOURSQUARE CHURCH (APNs 726-32-011 & -014)

WHEREAS, on July 3, 2003, the City received a use permit application for a church facility (Generations Foursquare Church) proposed to be located in the Morgan Hill Ranch Business Park; and

WHEREAS, on September 23, 2003, the Planning Commission approved conditional use permit application, UP-03-07: Jarvis – Generations Foursquare Church, subject to conditions of approval; and

WHEREAS, on October 3, 2003, the Morgan Hill Development Partners filed a Notice of Appeal with the City, appealing the approval of the conditional use permit for the Generations Foursquare Church; and

WHEREAS, the Morgan Hill Development Partners filed a Notice of Appeal on grounds that the approval was not based on substantial evidence in the record and that the environmental document is inadequate; and

WHEREAS, such request was considered by the City Council at their regular meeting of November 19, 2003, at which time the City Council approved appeal application, AP-03-05: Jarvis – Morgan Hill Development Partners; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

FINDINGS:

SECTION 1. A church use in the Morgan Hill Ranch Business Park has been found inconsistent with the criteria for use permit approval contained in Section 18.54.050.B.1 and B.3 of the Zoning Code as more explicitly addressed below.

SECTION 2. In accordance with Section 18.54.050.B.1, the Planning Commission, or City Council upon appeal, shall approve a conditional use application only if it finds that the site is suitable and adequate for the proposed use.

SECTION 3. Sufficient parking for the Applicant's use as required by Section 18.50.020 of the Morgan Hill Zoning Code is not available on the subject site. As a result,

the Applicant secured shared parking agreements granting Generations Foursquare Church use of parking facilities on an adjacent property. The shared parking agreements are not recorded and can be terminated at anytime. Therefore, the Commission required the shared parking agreements to be recorded as a condition of the use permit approval.

SECTION 4. Recordation of the shared parking agreements ensures the availability of long-term parking for the church use. However, it does not guarantee that church members will not park elsewhere in the business park. This potential for parking spill-over impacts the use of such parking by surrounding properties.

SECTION 5. In accordance with Section 18.54.050.B.3, the Planning Commission, or City Council upon appeal, shall approve a conditional use application only if it finds that the proposed use at the location requested will not adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; impair the utility or value of property of other persons located in the vicinity of the site; or be detrimental to public health, safety or general welfare.

SECTION 6. The Applicant proposes to provide after-school tutoring/classes on-site, which are considered to be school activities under Section 42301.9(a) of the California Health and Safety Code. In accordance with the Health and Safety Code Section 42301.6, any use ('source') seeking a permit to emit hazardous air emissions which is located within 1,000 feet from a school site is required to prepare a public notice. The public notice is required to be distributed to the parents or guardians of children enrolled in any school that is located within one-quarter mile of the source and to each address within a radius of 1,000 feet of the source at least 30 days prior to the date of final action on the application.

SECTION 7. In accordance with Health and Safety Code Section 42301.7, if the air pollution control officer determines there is a reasonably foreseeable threat of a release of an air contaminant from a source within 1,000 feet of the boundary of a school that would result in a violation of the Health and Safety Code and impact persons at the school, the officer is required to notify the administering agency and the fire department having jurisdiction over the school.

SECTION 8. The administering agency may, in responding to a reasonably foreseeable threat of a release, do any of the following:

- a) Review the facility's risk management and prevention plan to determine whether the program should be modified, and if so, require submission of appropriate modifications.
- b) If the facility has not filed a risk management and prevention plan with the administering agency, require the preparation and submission of a plan.

SECTION 9. The air pollution control officer may, in responding to a reasonably foreseeable threat of a release, do any of the following:

- a) If necessary, issue an immediate order to prevent the release or mitigate the reasonably foreseeable threat of a release pending a hearing when there is a substantial probability of an injury to persons at a school resulting from a release.
- b) Apply to the district board for issuance of an order for abatement.

SECTION 10. Based on the Health and Safety Code provisions identified in Sections 4 thru 6 of this Resolution, the presence of a school site within a business park could adversely impact the surrounding industrial uses and impair the utility or value of property by limiting the type and/or intensity of the industrial operations conducted on-site; impairing property values and/or requiring businesses to undertake regulatory steps regarding air quality safety.

SECTION 11. Testimony from businesses currently located in the Morgan Hill Ranch Business Park, including Abbott Laboratories, Community Lending, Fastener Service Corp, GMP Metal Plating and Robidart & Associates, was received at the public hearing. Each business is located within 1,000 feet of the proposed use, and each spoke in opposition to the conditional use for the following reasons:

- a) The presence of a church and school may preclude these businesses from expanding their operations on-site.
- b) Parking for the proposed use is insufficient, and could negatively impact the surrounding businesses.

SECTION 12. The impacts on surrounding industrial uses could also be adversely impacted by the presence of a school due to the expense and delay involved with the notification process described under Section 4 of this Resolution.

SECTION 13. The project impacts described under Sections 11 and 12 of this Resolution could also diminish the value of the surrounding industrial properties.

SECTION 14. Based on testimony received at the duly-noticed public hearing, along with exhibits, drawings, other materials and provisions of the Health and Safety Code, the City Council finds that the proposed use at this location in the Morgan Hill Ranch industrial business park will adversely impair the utility and value of property of other persons located in the vicinity of the site.

SECTION 14. On this basis, and considering all evidence including but not limited to testimony and exhibits received at the hearing and on file in this matter, the City Council hereby overturns the Planning Commission's approval of use permit application, UP-03-07: Jarvis - Generations Foursquare Church.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 3rd Day of December, 2003, by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on December 3, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: December 3, 2003

APPEAL APPLICATION, AP-03-06: JARVIS - ANRITSU

RECOMMENDED ACTIONS:

Adopt Resolution taking no action on the appeal application.

EXECUTIVE SUMMARY: Anritsu U.S. Holding, Inc. is appealing a condition that was placed on the approval of use permit application, UP-03-07: Jarvis – Generations Foursquare Church.

At the November 19 meeting, the Council approved a separate appeal application filed by the Morgan Hill Development Partners, which appealed the Planning Commission's approval to allow a church use in the Morgan Hill Ranch Business Park. By approving the appeal, the Council overturned the Commission's approval of use permit application UP-03-07: Jarvis – Generations Foursquare Church. As a result, the Anritsu application which is appealing a condition of the use permit approval in essence becomes null and void. Therefore, a Resolution taking no action on Anritsu's appeal was prepared and is attached for the Council's adoption.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item # 13

Prepared By:

Associate Planner

Approved By:

CDD Director

Submitted By:

City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL TAKING NO ACTION ON APPEAL APPLICATION AP-03-06: JARVIS – ANRITSU (APNs 726- 32-011 & -014)

WHEREAS, on July 3, 2003, the City received a use permit application for a church facility (Generations Foursquare Church) proposed to be located in the Morgan Hill Ranch Business Park; and

WHEREAS, sufficient parking for the church as required by the Zoning Code was not available on the subject site; and

WHEREAS, the Applicant secured shared parking agreements granting Generations Foursquare Church use of the parking facilities on an adjacent property; and

WHEREAS, the shared parking agreements were not recorded and could be terminated at anytime; and

WHEREAS, on September 23, 2003, the Planning Commission approved conditional use permit application, UP-03-07: Jarvis – Generations Foursquare Church; and

WHEREAS, as a condition of the use permit approval, the Commission required that the shared parking agreements be recorded against the property(ies) providing off-site parking; and

WHEREAS, on October 3, 2003, the Morgan Hill Development Partners filed a Notice of Appeal with the City, appealing the approval of use permit application UP-03-07: Jarvis - Generations Foursquare Church; and

WHEREAS, on October 3, 2003, Anritsu U.S. Holding, Inc. filed a Notice of Appeal with the City, appealing the condition requiring the recordation of the shared parking agreements for the Generations Foursquare Church; and

WHEREAS, the appeal request filed by Anritsu was considered by the City Council at their regular meeting of November 5, 2003, and continued to November 19, 2003, at which time the City Council took no action on appeal application, AP-03-06: Jarvis - Anritsu; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE
AS FOLLOWS:**

SECTION 1. Two separate appeal applications were filed with the City regarding use permit application UP-03-07: Jarvis – Generations Foursquare Church. Morgan Hill Development Partners filed appeal application AP-03-05: Jarvis – Morgan Hill Development Partners appealing the approval of the use permit. Anritsu U.S. Holding, Inc. filed appeal application AP-03-06: Jarvis – Anritsu appealing a condition of the use permit approval.

SECTION 2. The appeal application filed by the Morgan Hill Development Partners addresses the more fundamental question of whether a church should be allowed in the Morgan Hill Ranch Business Park. As a result, the Council considered appeal application AP-03-05: Jarvis – Morgan Hill Development Partners before consideration of the Anritsu appeal.

SECTION 3. Based on testimony received at the duly-noticed public hearing, along with exhibits and drawings and other materials, the City Council approved appeal application AP-03-05: Jarvis – Morgan Hill Development Partners, overturning the Commission's approval of use permit application UP-03-07: Jarvis – Generations Foursquare Church.

SECTION 4. As the Council overturned the Commission's approval, thereby denying the conditional use permit, the Anritsu application appealing a condition of the use permit approval becomes null and void. Therefore, the City Council hereby takes no action on appeal application AP-03-06: Jarvis – Anritsu.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 3rd Day of December, 2003, by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on December 3, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: December 3, 2003

REIMBURSEMENT OF THE APPEAL APPLICATION FEE FOR THE SANTA CLARA VALLEY AUDUBON SOCIETY AND COMMITTEE FOR GREEN FOOTHILLS

RECOMMENDED ACTION(S):

1. Consider request to reimburse the fee; and
2. Provide direction to staff

EXECUTIVE SUMMARY:

This item was continued from the November 19, 2003 meeting at the request of the applicant so that they could be present at the City Council meeting. The Committee for Green Foothills and the Santa Clara Valley Audubon Society filed an appeal of the staff decision to approve a Temporary Use Permit to allow operation of an existing golf course at 14830 Foothill Avenue. The TUP was issued to maintain the existing environmental conditions on the golf course pending completion of an Environmental Impact Report (EIR). The Planning Commission considered the appeal on October 14, 2003. On October 28, 2003, the Commission adopted the attached Resolution No. 03-80 upholding the administrative approval of the TUP. The appellants have decided not to appeal this decision to the City Council. The attached Planning Commission memorandum dated October 14, 2003 and October 14 and October 28 meeting minutes provide additional background information on this item.

The applicant's appeal includes a request for reimbursement of the City's appeal fee. In accordance with Section 18.64.070(A) of the Municipal Code, except where an appeal is filed by the City Manager or any City Council member in pursuance of official duties, a written notice of appeal shall be accompanied by a fee, as established by resolution of the City Council. The fee for processing an appeal of an administrative decision is \$1084. The appellants are requesting this fee be waived and refunded for the reasons stated in the attached notice of appeal letter dated September 5, 2003. The filing fee covers the City's cost of processing an appeal application before the Planning Commission. The applicant's appeal was processed to a final decision and the City therefore incurred the full cost of processing this application.

Staff is not recommending that the Council reimburse the appeal fee as it would set a precedent for future requests and would be contrary to the Council's cost recovery policy. Should the Council wish to reimburse the applicant for the appeal fee; the Council should allocate General Fund reserves to reimburse the applicant for the fee that has already been paid.

FISCAL IMPACT:

No fiscal impact should the Council deny the request. General Fund reserves would be reduced by \$1,084 should the Council wish to approve the request.

Agenda Item # 14

Prepared By:

Planning Manager

Approved By:

**Community
Development Director**

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: December 3, 2003

Agenda Item # 15

Prepared By:

Planning Manager

Approved By:

CDD Director

Submitted By:

City Manager

ZONING AMENDMENT, ZA-02-16; DEVELOPMENT AGREEMENT AMENDMENT, DAA-02-09: DEWITT - MARQUEZ

RECOMMENDED ACTIONS:

1. Reconvene/close Public Hearing
2. Motion to approve the Negative Declaration
3. Waive the reading in full of the Zoning Amendment (Prezone) Ordinance
4. Introduce on first reading the Zoning Amendment Ordinance (roll call vote)
5. Waive the reading in full of the Development Agreement Amendment Ordinance
6. Introduce on first reading the Development Agreement Amendment Ordinance

EXECUTIVE SUMMARY: The applicant is requesting approval of a Zoning Amendment to expand an existing Residential Planned Development (RPD) and a Precise Development Plan for a 5 lot, 9.45 acre area located on the west side of DeWitt Avenue 700 feet south of the intersection with West Dunne Avenue. The applicant is also requesting approval of an amendment to the Development Agreement approved on May 21, 2003, for subdivision of a two-acre portion of the expanded RPD. The applicant is requesting that the agreement be amended to allow additional time to complete the project. The amended agreement is attached.

The Commission considered the Zoning Amendment and Development Agreement Amendment at their October 14, 2003 meeting and voted 5-2 to recommend approval with minor modifications. Several residents of adjacent homes expressed concern at the meeting in regards to the extension of Price Drive between John Telfer Drive and DeWitt Avenue. The Council considered the Zoning Amendment and the Development Agreement Amendment at the regular November 5, 2003 during which residents again expressed opposition to the project. Council directed Staff to provide detailed explanation of the Price Drive connection and continued the item to the December 3rd meeting. The requested explanation of is attached as the Background Report. The Commission and November 5th Council staff reports and minutes are also attached for Council's reference.

FISCAL IMPACT: None. Filing fees were paid to the City to cover processing of this application.

Attachments:

1. Background Report: Reasons for Price Dr. Connection
2. Supplemental Traffic Analysis (dated 10/10/03)
3. Negative Declaration
4. Zoning Amendment Ordinance
5. Dev. Agreement Amendment Ordinance
6. Amended Development Agreement
7. Planning Commission Minutes / Staff Report (October 14, 2003)
8. Council Minutes / Staff Report (November 5, 2003)
9. Precise Plan
10. Vicinity Map

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1310 WHICH PREZONED 9.45 ACRES LOCATED ON THE WEST SIDE OF DEWITT AVENUE NORTH OF SPRING AVENUE FROM COUNTY HS, HILLSIDE TO CITY R-1 (12000)/SINGLE FAMILY RESIDENTIAL PLANNED DEVELOPMENT. THE AMENDMENT INCLUDES THE ADOPTION OF A PRECISE DEVELOPMENT PLAN FOR THE 21-LOT, 9.45-ACRE RESIDENTIAL PLANNED DEVELOPMENT (APNs 773-08-012 through -016)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

- SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- SECTION 3.** An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A Mitigated Negative Declaration has been filed.
- SECTION 4.** The City Council finds that the proposed RPD and Precise Development Plan are consistent with the criteria specified in Chapter 18.18 of the Morgan Hill Municipal Code.
- SECTION 5.** The City Council hereby approves the Precise Development Plan as contained in that certain series of documents date stamped October 8, 2003, on file in the Community Development Department, entitled "Lands of Marrad" prepared by MH Engineering Co. These documents, as amended by site and architectural review, show the location and sizes of all lots in this development and the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, parking areas, landscape areas and any other purposeful uses on the project.
- SECTION 6.** Approval of the Marrad/DeWitt Landowners RPD and Precise Development Plan shall allow the following deviations from the R-1(12,000) zoning district in order to provide for clustering on the gently sloping easterly portions of the project site and reduce the density of development on the more steep westerly portions of the project site:

Lot No.	Setbacks	Lot Size
1	6-foot left side yard setback	9,651 square feet
2	Five-foot side yard setbacks – both yards	9,878 square feet
3	Five-foot side yard setbacks – both yards	10,536 square feet
4	7 ½-foot right side yard setback	10,249 square feet
5	Ten foot side yard setbacks – both yards	--
6	--	9,261 square feet
7	--	9,788 square feet
8	--	10,396 square feet
9	--	10,197 square feet
11	--	10,373 square feet
12	--	9,052 square feet

SECTION 7. With the exception of the deviations allowed under Section 6 of this Ordinance, buildout of the Marrad/DeWitt Landowners project shall comply with the site development standards of the R-1(12,000) zoning district. Any additions/modifications to the approved building plans shall also comply with the site development standards of the R-1(12,000) zoning district.

SECTION 8. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 9. Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 3rd Day of December 2003, and was finally adopted at a regular meeting of said Council on the 17th Day of December 2003, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. _____, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 17th Day of December, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1618, NEW SERIES, TO AMEND DEVELOPMENT AGREEMENT DA-02-09 FOR APPLICATION MMP-02-02: DEWITT – MARQUEZ TO ALLOW FOR A THREE-MONTH EXTENSION OF TIME FOR FINAL MAP SUBMITTAL AND A SIX-MONTH EXTENSION OF TIME FOR BUILDING PERMIT SUBMITTAL FOR FOUR (4) BUILDING ALLOTMENTS AWARDED IN THE 2002 RDCS COMPETITION (APN 773-08-014).

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 02-37, adopted May 14, 2002, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MMP-02-02: DeWitt – Marquez	5 single-family homes (4 allotments)

SECTION 4. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 5. EXCEPTION TO LOSS OF BUILDING ALLOCATION. The project applicant has in a timely manner, submitted necessary planning applications to pursue development. The applicant is requesting to amend the approved development agreement approved under Ordinance No. 1618 to allow for a three-month extension of time for final map submittal and a six-month extension of time for building permit submittal for four (4) building allotments, due to delays not the result of developer inaction. Delays in project processing have occurred due to the extended period of time required to conduct the environmental analysis for the project. An Exception to Loss of Building Allocation is granted, extending the deadline for final map submittal to December 1, 2003, and extending the deadline for building permit submittal for the two (2) building allotments awarded for 2003-04 to January 15, 2004, and for the two (2) building allotments awarded for 2004-05 to January 15, 2005.

SECTION 6. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 7. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

SECTION 8. AMENDED DEVELOPMENT AGREEMENT. The amended development schedule, attached as Exhibit A, shall replace the schedule approved under Ordinance No. 1618.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 3rd Day of December 2003, and was finally adopted at a regular meeting of said Council on the 17th Day of December 2003, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

⌘ CERTIFICATE OF THE CITY CLERK ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. _____, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 17th Day of December, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: December 3, 2003

DEVELOPMENT AGREEMENT DA 03-05: DEWITT – MARRAD GROUP

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

EXECUTIVE SUMMARY:

The applicant is requesting approval of a development agreement that will cover the development commitments for a 4-lot subdivision located on the west side of DeWitt Avenue approximately 700 feet south of the intersection with West Dunne Avenue.

In accordance with established City Council policy, all residential projects awarded building allotments through the Residential Development Control System must secure City Council approval of a Development Agreement. The purpose of this agreement is: to secure commitments made during the Residential Development Control System process, and to establish a development schedule and mechanism for monitoring project success. Special attention is directed to Paragraph 14 of the Agreement, which addresses the developer commitments made during the 2003 Residential Development Control System process. Exhibit "B" of the agreement sets forth the due dates for actions prior to construction.

The Planning Commission reviewed the development agreement application at its October 14, 2003 regular meeting. The Commission voted 6-0, with one Commissioner absent, approving the request. The City Council considered the application at its regular meeting of November 5th and in conjunction with application SD-03-05, unanimously (5-0) continued the public hearing to the December 3rd meeting. The Commission and November 5th Council staff reports and minutes are attached for Council's reference.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Attachments:

- 1.Dev. Agreement Ordinance
- 2.Development Agreement
- 3.Council Minutes / Staff Report (November 5, 2003)
- 4.Vicinity Map

Agenda Item # 16 _____
Prepared By: _____
Contract Planner
Approved By: _____
Community Development Director
Submitted By: _____
City Manager

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF MORGAN HILL APPROVING DEVELOPMENT
AGREEMENT, DA-03-05: DEWITT – MARRAD GROUP
(APN 773-08-015)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 03-23, adopted April 22, 2003, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MMP-03-02: DeWitt – Marrad Group	4 Single-Family Homes (3 allotments)

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 3rd Day of December 2003, and was finally adopted at a regular meeting of said Council on the 17th Day of December 2003, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

⌘ CERTIFICATE OF THE CITY CLERK ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. ___, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 17th Day of December, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *December 3, 2003*

Agenda Item #17

Prepared By:

Planning Manager

Approved By:

**Community
Development Director**

Submitted By:

City Manager

SUBDIVISION, SD-02-11: DEWITT - MARQUEZ

RECOMMENDED ACTIONS:

1. Open/close Public Hearing
2. Adopt Resolution approving the Five Lot Subdivision Map.

EXECUTIVE SUMMARY: A request to subdivide a two-acre parcel to allow for the construction of five units located on the west side of DeWitt Avenue between Oak Park Drive and Spring Avenue, approximately 700 feet south of the intersection with West Dunne Avenue. In May 2003, the project received approval for a Residential Development Agreement in order to adjust the City's standard development schedule to fit the needs of the project.

The proposed subdivision was reviewed by the Planning Commission at its October 14, 2003, meeting. The Commission voted 6-0, with one Commissioner absent, approving the request. At this same meeting, the Commission also approved a subdivision map for a four lot residential development on the adjacent two acre parcel to the south (next agenda item). The two subdivisions share a proposed street, Price Drive that would extend east from John Telfer Drive. Several residents of homes adjacent to the subdivision expressed concern at the meeting in regards to the extension of Price Drive between John Telfer Drive and DeWitt Avenue.

This item was placed on the Consent calendar for the November 5th Council Meeting. The City Council voted unanimously (5-0) to pull the item from the Consent calendar and scheduled a public hearing regarding approval of the Subdivision Map for the December 3rd meeting.

Staff recommends the City Council approve the subdivision application with the Price Drive extension for the reasons outlined in the Background Report attached to Zoning Amendment request within this same agenda for this development (Application ZA-02-16). Approval is recommended by adoption of the attached Resolution. A mitigated Negative Declaration for this application was approved as part of the Zoning Amendment application. The Planning Commission staff report, resolution, conditions of approval, and subdivision map are attached.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the costs of processing this application.

Attachments:

1. Council Resolution with Conditions of Approval
2. PC Resolution 03-73
3. Tentative Map
4. Planning Commission Staff Report and Minutes
5. Council Staff Report / Minutes (November 5, 2003)

RESOLUTION NO.

A RESOLUTION OF THE CITYCOUNCIL OF THE CITY OF MORGAN HILL APPROVING A FIVE (5) LOT SUBDIVISION CONSISTING OF FIVE (5) SINGLE-FAMILY RESIDENTIAL LOTS ON A TWO ACRE PORTION OF A 9.45 ACRE RESIDENTIAL PLANNED DEVELOPMENT PROJECT SITE LOCATED ON THE WEST SIDE OF DEWITT AVE., 700 FT. SOUTH OF THE DEWITT AVENUE INTERSECTION WITH WEST DUNNE AVENUE. (APN 773-08-014) (APPLICATION SD 02-11: DEWITT – MARQUEZ)

WHEREAS, such request was considered by the Planning Commission at their regular meeting of September 23, 2003 and continued to the October 14, 2003 regular meeting; and

WHEREAS, the Planning Commission approved application SD-02-11: DeWitt – Marquez at the regular meeting of October 14, 2003; and

WHEREAS, pursuant to Section 17.20.110 of the Morgan Hill Municipal Code, the City Council, at its November 5, 2003 meeting voted to schedule a public hearing and separate action on this subdivision application; and

WHEREAS, such request was considered by the City Council at their regular meeting of December 3, 2003; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials, have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The approved project is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. An expanded environmental initial study has been prepared for this project, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A Mitigated Negative Declaration will be filed.

SECTION 3. The proposed subdivision will not result in a violation of the requirements established by the Regional Water Quality Control Board.

SECTION 4. The approved project shall be subject to the conditions as identified in the set of standard conditions attached hereto, as Exhibit "A", and by this reference incorporated herein.

SECTION 5. The approved project shall be subject to the mitigation measures as identified in the Mitigated Negative Declaration and Expanded Environmental Initial Study prepared for the project in August 2003.

SECTION 6. Development of parcel APN 773-08-014 shall proceed in accordance with the following standards:

- 1) The left side yard of Lot 1 shall have a 6-foot setback, both side yards of Lots 2 and 3 shall have 5-foot setbacks, the right side yard setback on Lot 4 shall be 7 ½ feet and both side yards of Lot 5 shall have 10-foot setbacks.
- 2) Lot 1 shall be 9,651 square feet; Lot 2 shall be 9,849 square feet, Lot 3 shall be 10,527 square feet, Lot 4 shall be 10,249 square feet, and Lot 5 shall be 21,366 square feet.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 3rd Day of December, 2003, by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

🏛️ CERTIFICATION 🏛️

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on December 3, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: December 3, 2003

Agenda Item # 18

Prepared By:

Planning Manager

Approved By:

**Community
Development Director**

Submitted By:

City Manager

SUBDIVISION, SD-03-05: DEWITT – MARRAD GROUP

RECOMMENDED ACTIONS:

1. Open/close Public Hearing
2. Adopt Resolution approving the Four Lot Subdivision Map.

EXECUTIVE SUMMARY: A request to subdivide a two-acre parcel to allow for the construction of four units located on the west side of DeWitt Avenue between Oak Park Drive and Spring Drive, approximately 700 feet south of the intersection with West Dunne Avenue.

The proposed subdivision was reviewed by the Planning Commission at its October 14, 2003, meeting. The Commission voted 6-0, with one Commissioner absent, approving the request. At this same meeting, the Commission also approved a subdivision map for a five lot residential development on the adjacent two acre parcel to the north (previous agenda item). The two subdivisions share a proposed street, Price Drive that would extend east from John Telfer Drive. Several residents of homes adjacent to the subdivision expressed concern at the meeting in regards to the extension of Price Drive between John Telfer Drive and DeWitt Avenue.

This item was placed on the Consent calendar for the November 5th Council Meeting. The City Council voted unanimously (5-0) to pull the item from the Consent calendar and scheduled a public hearing regarding approval of the Subdivision Map for the December 3rd meeting.

Staff recommends the City Council approve the subdivision application with the Price Drive extension for the reasons outlined in the Background Report attached to the Zoning Amendment application within this same agenda for the overall RPD (Application ZA-02-16). Approval is recommended by adoption of the attached Resolution. A mitigated Negative Declaration for this application was approved as part of the overall RPD under Application ZA-02-16. The Planning Commission staff report, minutes, resolution, conditions of approval (Council Resolution) and subdivision map are attached.

FISCAL IMPACT: None. Filing fees were paid to the City for the costs of processing this application.

Attachments:

1. Council Resolution with Conditions of Approval
2. PC Resolution 03-76
3. Tentative Map
4. Planning Commission Staff Report and Minutes
5. Council Staff Report / Minutes (November 5, 2003)

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A 4 LOT SUBDIVISION CONSISTING OF 4 SINGLE-FAMILY RESIDENTIAL LOTS ON A TWO ACRE PORTION OF A 9.45 ACRE RESIDENTIAL PLANNED DEVELOPMENT PROJECT SITE LOCATED ON THE WEST SIDE OF DEWITT AVE., 700 FT. SOUTH OF THE DEWITT AVENUE INTERSECTION WITH WEST DUNNE AVENUE. (APN 773-08-015) (APPLICATION SD 03-05: DEWITT – MARRAD)

WHEREAS, such request was considered by the Planning Commission at their regular meeting of September 23, 2003 and continued to the regular meeting of October 14th, at which time the Planning Commission approved application SD-03-05: DeWitt - Marrad; and

WHEREAS, pursuant to Section 17.20.110 of the Morgan Hill Municipal Code, the City Council, at its November 5, 2003 meeting voted to schedule a public hearing and separate action on this subdivision application; and

WHEREAS, such request was considered by the City Council at their regular meeting of December 3, 2003; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials, have been considered in the review process.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES RESOLVE AS FOLLOWS:

SECTION 1. The approved project is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. An Expanded Environmental Initial Study has been prepared for this project, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A Mitigated Negative Declaration will be filed.

SECTION 3. The proposed subdivision will not result in a violation of the requirements established by the Regional Water Quality Control Board.

SECTION 4. The approved project shall be subject to the conditions as identified in the set of Standard Conditions attached hereto, as Exhibit "A", and by this reference incorporated herein.

SECTION 5. The approved project shall be subject to the mitigation measures as identified in the Mitigated Negative Declaration and Expanded Environmental Initial Study prepared for the project in August 2003.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 3rd Day of December, 2003, by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on December 3, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: December 3, 2003

AMENDMENT OF RESOLUTION 5738 REGARDING WRITTEN ARGUMENTS REGARDING BALLOT MEASURE EXTENDING AND UPDATING RESIDENTIAL DEVELOPMENT CONTROL SYSTEM

RECOMMENDED ACTIONS: Amend Resolution 5738 to Appoint Council Members to Draft Arguments Regarding Ballot Measure Extending and Updating the City's Residential Development Control System

EXECUTIVE SUMMARY:

At its meeting of November 19, 2003, the City Council adopted Resolution 5738, a copy of which is attached hereto, which set priorities for filing written arguments regarding the ballot measure extending and updating the City's Residential Development Control System, Measure P. However, the Council did not authorize any Council Members to file the written arguments regarding the measure.

Staff requests that the City Council amend Section 1 of the Resolution by designating those Council Members authorized to file written arguments regarding the Measure.

FISCAL IMPACT:

There is no financial impact from amendment of the Resolution.

Agenda Item # 19

Prepared By:

Helene Leichter
City Attorney

Submitted By:

J. Edward Tewes
City Manager

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, AMENDING RESOLUTION NO. 5738 SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS.

WHEREAS, on November 19, 2003, the City Council of the City of Morgan Hill adopted Resolution No. 5738, a copy of which is attached hereto as Exhibit A; and,

WHEREAS, in adopting Resolution 5738 the City Council did not specify which Council Members were to draft arguments regarding the ballot measure as stated in Section 1 of Resolution 5738; and,

WHEREAS, the City Council now wishes to specify which Council Members are to draft such arguments.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the City Council amends Section 1 of Resolution 5738 to provide as follows:

“SECTION 1. The City Council authorizes the following Council Members to file written argument(s) regarding the City measure as specified above, accompanied by the printed names and signatures of the persons submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California and to change the argument until and including the date fixed by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk.

Council Members:”

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SECTION 2. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED by the City Council of the City of Morgan Hill at a regular meeting held on the 3rd day of December, 2003 by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

🔑 CERTIFICATION 🔑

I, **IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Resolution No. _____, adopted by the City Council at a Regular Meeting held on December 3, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO. 5738

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS.

WHEREAS, a Special Municipal Election is to be held in the City of Morgan Hill, California, on Tuesday, March 2, 2004, at which there will be submitted to the voters the following measure:

Shall a measure be adopted to amend the General Plan and Municipal Code of the City of Morgan Hill to update Measure P which governs the City's Residential Development Control System (RDCS), to extend the expiration date of the RDCS to the year 2020, establishing the population ceiling of 48,000 for the year 2020 consistent with the 2001 General Plan and the current rate of growth allowed under Measure P, and refine certain policies of the RDCS to encourage more efficient land use, sustainable transit-oriented development, address difficulties in implementation of the allotment system, and comply with state legal requirements?	YES
	NO

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the City Council authorizes the following Council Members to file written argument(s) regarding the City measure as specified above, accompanied by the printed names and signatures of the persons submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California and to change the argument until and including the date fixed by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk.

Council Members:

SECTION 2. That the City Council directs the City Clerk to transmit a copy of the measure to the City Attorney, unless the organization or salaries of the office of the City Attorney are affected. The City Attorney shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. If the measure affects the organization or salaries of the office of the City Attorney, the City Clerk shall prepare the impartial analysis. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

SECTION 3. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED by the City Council of the City of Morgan Hill at a regular meeting held on the 19th day of November, 2003 by the following vote:

AYES:	COUNCIL MEMBERS:	Larry Carr, Hedy Chang, Dennis Kennedy, Greg Sellers, Steve Tate
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

ATTEST:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5738, adopted by the City Council at a Regular Meeting held on November 19, 2003.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



REDEVELOPMENT AGENCY/CITY COUNCIL STAFF REPORT

MEETING DATE: December 3, 22003

Agenda Item # 20

Approved By:

BAHS Director

Submitted By:

Executive Director

Design of Santa Clara County's Courthouse Project

RECOMMENDED ACTION(S): 1) Provide comments to County staff on the current design for the County of Santa Clara's Morgan Hill Courthouse project and 2) authorize the City Manager to do everything necessary and appropriate to commit to funding the additional cost of installing a concrete driveway between the Courthouse complex and future City fire station.

EXECUTIVE SUMMARY: In March, April, and August 2003, the Redevelopment Agency/City Council held workshops to discuss the design for the Morgan Hill Courthouse Campus which includes the Courthouse and Justice Agencies Building. The workshops were interactive discussions with the County of Santa Clara's General Service Agency staff and their architectural design team regarding the schematic design of the facility.

At the last workshop in August, County staff indicated they would report back to the Agency regarding their responses to the Agency's comments made at the workshop. Since that time, the County design team has been working on construction drawings and other project issues.

Attached for your reference are

- A letter to the County from the Mayor summarizing the Council's comments from the August workshop;
- The response to the Mayor's letter from the County;
- Comments from staff to the County regarding the landscaping plan;
- Letter to the County from staff regarding the adjacent fire station; and
- A partial set of the 50% construction drawings.

At this meeting, the County's presentation will include the following:

- New computer generated perspectives of the building elevations as requested by the Agency;
- Revised material/sample boards;
- Discussion of the current design including the landscaping as it relates to the Agency's previous comments; and
- Discussion of the additional cost of replacing the shared asphalt driveway with a concrete driveway (estimated at \$72,000) to accommodate the needs of the future City fire station.

The County would like to receive your comments on the current design and materials/samples for the project. Staff would recommend that the City commit to covering the costs of a concrete shared driveway between the Courthouse and future fire station. A concrete driveway is needed to support the weight of the fire vehicles returning to the future station.

FISCAL IMPACT: There are adequate monies in the Fire Impact Fund to cover the cost of a concrete driveway



CITY COUNCIL STAFF REPORT

MEETING DATE: December 3, 2003

Agenda Item # 21

Prepared By:

Associate Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

Interim Uses Subcommittee Status Report

RECOMMENDED ACTION(S): Discuss and provide appropriate direction.

EXECUTIVE SUMMARY: The Council received a request from the proponents of the Day Workers Center to waive or defer the on-site and off-site improvements for the proposed facility. Because the code does not allow the Council to waive or defer on-site and off-site improvements, the Council directed the Chair of the Planning Commission to appoint two members of the Commission to a subcommittee to review the possibility of amending the code to allow the waiver or deferment of required on-site and off-site improvements for interim uses of three to five years.

Councilmember Steve Tate and Planning Commissioners Joe Mueller and Geno Acevedo volunteered to serve on the subcommittee. Working with staff the subcommittee met the first time on October 31 to discuss the possibility of deferring or waiving on-site improvements and off-site improvements for uses that are limited to a three to five year period. Staff provided the subcommittee with preliminary research regarding waiving or deferring on-site and off-site improvements. The subcommittee directed staff to further research planning literature and other codes to determine whether other cities have a definition for "interim uses" and if they deferred or waived on-site and off-site improvements.

The subcommittee met a second time on November 24, in which staff reported their findings to the subcommittee. Staff found one city, Scotts Valley that waived on-site improvements. Scotts Valley allows the planning commission to modify off-street and loading regulations in commercial and industrial districts with the approval of a use permit if the site has a width of sixty feet or less and has existing structures. Staff could not find any other examples of cities that waived or deferred on-site or off-site improvements. Staff contacted fifteen cities and many of those cities express concerns about allowing a use to operate without installing improvements because, in their experience, no use is temporary.

The subcommittee directed staff to review the following suggested amendments to the code:

- Consider amending the conditional use permit section of the code to allow uses of a limited duration to defer on-site and off-site improvements.
- Review the possibility of adding a public benefit finding to the code to allow the deferral of improvements and directed staff to develop a definition for public benefit.
- Consider making "employment centers" conditional uses in the CC-R zoning district so the Day Worker Center would be a conditional use
- Possibly require bonding for the required improvements.
- Consider requiring the user to submit an "exit plan" one year before the expiration of the use permit.

The subcommittee will meet again in December to discuss staff findings and any Council comments or directions to develop a final recommendation. The subcommittee will prepare a final recommendation to the Council in January.

FISCAL IMPACT: No budget adjustment required.



CITY COUNCIL STAFF REPORT

MEETING DATE: December 3, 2003

Agenda Item # 22

Prepared By:

Asst. to the City Mgr.

Submitted By:

City Manager

CITY-WIDE SURVEY

RECOMMENDED ACTION

1. **Review report and provide direction to staff** on whether to pursue a City-wide survey; and if a survey is desired, provide funding authority.

EXECUTIVE SUMMARY:

One of the City Manager's Office workplan items is to evaluate the costs and consider the uses of a City-wide survey. Several options exist for conducting a City-wide survey; these options are summarized below. Some potential uses of survey research are noted as well. It is important to note that the 2003-04 budget did not include funds for the purpose of conducting a survey. If desired, reserves could be used for this purpose.

Survey Costs

Attachment A is a chart with survey cost information from three vendors: Godbe Research, the National Citizen Survey, and the San Jose State University Foundation. The estimated costs range from \$7,500 to \$23,000, depending on whether most survey questions are custom or pre-set; the acceptable margin of error; whether the survey is in Spanish as well as English; and whether comparisons to other agencies are required.

Recommended Vendor

The National Citizen Survey, at an estimated cost of \$7,500, represents the best value for the City, though there are important drawbacks to using this product. In particular, this survey uses pre-set questions, with the exception of three policy questions identified by the City. The NCS survey instrument is provided as Attachment B; questions 2, 4, 9 and 10 can be customized according to the services Morgan Hill offers, and questions 16a, b, and c will be developed entirely by the City. It also takes longer to complete, with results available approximately 12 weeks after the survey questions are finalized. On the positive side, the cost is about one-third the cost of the custom survey. In addition, comparisons to other cities are provided as part of the base package.

Potential Uses

There are a number of potential uses for survey information, particularly if surveys are conducted annually or bi-annually over many years. Measuring resident satisfaction with particular City services over time could help the City Council decide where to allocate City resources. The information would augment specific customer surveys being conducted by individual departments, and give departments valuable feedback for improving service delivery. Regular surveys would complement existing organizational goal setting, performance measurement, and workplan activities. In addition, the ability to compare satisfaction with services to satisfaction ratings in other communities could be helpful as we continue to develop performance measures over time. Local governments in 21 states have used the National Citizen Survey. In California, the following agencies use the NCS: Livermore, Palo Alto, Palm Springs, Ridgecrest, Oceanside, and San Luis Obispo.

FISCAL IMPACT:

The estimated cost for a City-wide survey ranges from \$7,500 to \$23,000. Survey funding is not included in the FY 2003-04 budget, but could be provided from reserves.

Survey Cost Comparisons

	Godbe Research	National Citizen Survey¹	SJSU Foundation	Comments
Survey Format	Telephone survey	Survey mailed to 1200 randomly selected households. Postcard sent a week in advance of survey mailing; then survey, followed by a reminder survey one week after that.	10-minute survey in English and Spanish of 600 randomly selected residents.	
Questions Included in the Survey	Fully customized (some standard demographic questions at the end of the survey).	Standard survey questions evaluate citizen satisfaction with Morgan Hill's quality of life, local policies, demographics, the quality of local government services, and resident use of services. Three policy questions specific to Morgan Hill would be included in the base survey. Additional open-ended questions may be included for a fee.	Fully customized with standard demographic questions	
Margin of Error	5% - 400 responses; 3% - 1000 responses (desirable if small subgroups that need to be analyzed)	5% - with sample size of 1200 surveys, 400 expected responses 3% possible at an additional cost; 600 responses	4% - 600 responses; could add to survey size if desired	Larger response numbers would be valuable if want to get subsamples with significant numbers of Latinos
Time Frame to Complete Survey	4 weeks after finalize survey	12 weeks after finalize survey including 3 custom questions.	2 weeks after finalize survey	
Reporting Format	"Toplines" results as soon as the interviewing is completed (overall aggregate results for each	Survey tabulated by the National Research Center. Final report to include an executive summary, survey background,	"Toplines" 2 days after surveying complete. Phil Trounstone would be available to present results	

¹ The National Citizen Survey was developed by the International City Management Association and the National Research Center, Inc.

	Godbe Research	National Citizen Survey¹	SJSU Foundation	Comments
	question asked); full report about 2 weeks later.	survey methods, local results, and appendices.	to staff, public, other audiences, if desired.	
Comparisons to other Agencies	Could compare results to area clients (Los Gatos, Campbell, Cupertino, etc.) or to other area cities where they can obtain either their reports or raw data. Can also make comparisons to Cities that are not in the area, but are of similar demographic and socioeconomic backgrounds.	Separate report would compare our results to norms based on their database of 300 surveys conducted in the U.S. over the last ten years.	This will add time and cost. If <u>we</u> compile survey data from other agencies, the additional time and cost will be reduced.	
Cost	<p>400 responses: \$17,485.00 for 12-minute survey, \$19,385.00 for 15-minute survey.</p> <p>600 responses: \$20,635.00 for 12-minute survey, \$22,765.00 for 15-minute survey.</p> <p>+ 10% for Spanish interviews -10% for short report or higher incidence rate</p>	<p>Basic service is \$7,500. Additional options available at additional cost: demographic cross tabulation, expanded mailing, Spanish translation, and the addition of open-ended questions.</p>	\$17,700 for 10-minute survey.	<p>Godbe would reduce price by 10% for two-year contract, and 15% for three-year contract.</p> <p>NCS currently does not offer a multi-year discount, but they are studying the possibility of doing so.</p> <p>SJSU would negotiate price if entering into a multi-year surveying contract.</p>
City Commitment	They work with 1 or 2 staff who coordinate with the rest of the City stakeholders. Time commitment is approximately 10 hours including review and approval of their draft	They recommend formation of a task force comprised of staff, elected officials and citizens. Task force would define the purpose and uses of the survey, review survey results, and make recommendations to CM for action. A lead staff member	They prefer to work with one person with authority to make final decisions or at least provide direct liaison to a decision-maker on behalf of the city. They will work with a committee if need be.	

	Godbe Research	National Citizen Survey¹	SJSU Foundation	Comments
	questionnaire, a meeting after the interviewing is completed for the topline report, and time to approve their report and attend any presentation of results.	would likely spend at least 10 hours over the course of the survey administration. Publicity is encouraged and would require additional staff time and money as well.	If a single staff person, the time commitment would be about 4-5 hours, plus any time needed to compile info from other jurisdictions, if this is desirable.	

Information as of 10/30/03

The XYZ of ABC 2003 Citizen Survey

Please complete this questionnaire if you are the adult (age 18 or older) in the household who most recently had a birthday. The adult's year of birth does not matter. Please circle the response that most closely represents your opinion for each question. Your responses are anonymous and will be reported in group form only.

1. Please circle the number that comes closest to your opinion for each of the following questions:

	<u>excellent</u>	<u>good</u>	<u>fair</u>	<u>poor</u>	<u>don't know</u>
How do you rate ABC as a place to live?	1	2	3	4	5
How do you rate your neighborhood as a place to live?	1	2	3	4	5
How do you rate ABC as a place to raise children?	1	2	3	4	5
How do you rate ABC as a place to retire?	1	2	3	4	5
How do you rate the overall quality of life in ABC?	1	2	3	4	5

2. Please rate each of the following characteristics as they relate to ABC as a whole:

	<u>excellent</u>	<u>good</u>	<u>fair</u>	<u>poor</u>	<u>don't know</u>
Sense of community.....	1	2	3	4	5
Openness and acceptance of the community towards people of diverse backgrounds ...	1	2	3	4	5
Overall appearance of ABC	1	2	3	4	5
Opportunities to attend cultural activities	1	2	3	4	5
Shopping opportunities	1	2	3	4	5
Air quality	1	2	3	4	5
Recreational opportunities	1	2	3	4	5
Job opportunities.....	1	2	3	4	5
Access to affordable quality housing	1	2	3	4	5
Access to affordable quality child care	1	2	3	4	5
Access to affordable quality health care	1	2	3	4	5
Ease of car travel in ABC	1	2	3	4	5
Ease of bus travel in ABC.....	1	2	3	4	5
Ease of rail/subway travel in ABC.....	1	2	3	4	5
Ease of bicycle travel in ABC.....	1	2	3	4	5
Ease of walking in ABC	1	2	3	4	5

3. Please rate the speed of growth in the following categories in ABC over the past 2 years:

	<u>much too slow</u>	<u>somewhat too slow</u>	<u>right amount</u>	<u>somewhat too fast</u>	<u>much too fast</u>	<u>don't know</u>
Population growth.....	1	2	3	4	5	6
Retail growth (stores, restaurants etc.).....	1	2	3	4	5	6
Jobs growth.....	1	2	3	4	5	6

4. To what degree, if at all, are the following problems in ABC:

	<u>not a problem</u>	<u>minor problem</u>	<u>moderate problem</u>	<u>major problem</u>	<u>don't know</u>
Crime	1	2	3	4	5
Drugs.....	1	2	3	4	5
Too much growth.....	1	2	3	4	5
Lack of growth.....	1	2	3	4	5
Graffiti	1	2	3	4	5
Noise	1	2	3	4	5
Run down buildings, weed lots, or junk vehicles.....	1	2	3	4	5
Taxes.....	1	2	3	4	5
Traffic congestion	1	2	3	4	5
Unsupervised youth	1	2	3	4	5
Homelessness.....	1	2	3	4	5
Weeds	1	2	3	4	5

5. Please rate how safe you feel from the following occurring to you in ABC:

	very <u>safe</u>	somewhat <u>safe</u>	neither safe <u>nor unsafe</u>	somewhat <u>unsafe</u>	very <u>unsafe</u>	don't <u>know</u>
Violent crime (e.g., rape, assault, robbery).....	1	2	3	4	5	6
Property crimes (e.g., burglary, theft).....	1	2	3	4	5	6
Fire.....	1	2	3	4	5	6

6. Please rate how safe you feel:

	very <u>safe</u>	somewhat <u>safe</u>	neither safe <u>nor unsafe</u>	somewhat <u>unsafe</u>	very <u>unsafe</u>	don't <u>know</u>
In your neighborhood during the day.....	1	2	3	4	5	6
In your neighborhood after dark	1	2	3	4	5	6
In ABC's downtown area during the day	1	2	3	4	5	6
In ABC's downtown area after dark.....	1	2	3	4	5	6
In ABC's parks during the day.....	1	2	3	4	5	6
In ABC's parks after dark.....	1	2	3	4	5	6

7. During the past twelve months, were you or anyone in your household the victim of any crime?

☐ no [go to question #9] ☐ yes [go to question #8] ☐ don't know

8. If yes, was this crime (these crimes) reported to the police?

☐ no ☐ yes ☐ don't know

9. In the last 12 months, about how many times, if ever, have you or other household members participated in the following activities in ABC?

	<u>never</u>	<u>once or twice</u>	<u>3 to 12 times</u>	<u>13 to 26 times</u>	<u>more than 26 times</u>
Used ABC public libraries or their services.....	1	2	3	4	5
Used ABC recreation centers.....	1	2	3	4	5
Participated in a recreation program or activity	1	2	3	4	5
Visited a neighborhood or XYZ park	1	2	3	4	5
Ridden a local bus within ABC.....	1	2	3	4	5
Attended a meeting of local elected officials or other local public meeting	1	2	3	4	5
Watched a meeting of local elected officials or other local public meeting on cable television	1	2	3	4	5
Recycled used paper, cans or bottles from your home.....	1	2	3	4	5
Volunteered your time to some group/activity in ABC	1	2	3	4	5
Read ABC Newsletter.....	1	2	3	4	5
Used the Internet for anything	1	2	3	4	5
Used the Internet to conduct business with ABC.....	1	2	3	4	5
Purchased an item over the Internet.....	1	2	3	4	5

10. How do you rate the quality of each of the following services in ABC?

	<u>excellent</u>	<u>good</u>	<u>fair</u>	<u>poor</u>	<u>don't know</u>
Police services.....	1	2	3	4	5
Fire services.....	1	2	3	4	5
Ambulance/emergency medical services.....	1	2	3	4	5
Crime prevention.....	1	2	3	4	5
Fire prevention and education.....	1	2	3	4	5
Traffic enforcement.....	1	2	3	4	5
Garbage collection.....	1	2	3	4	5
Recycling.....	1	2	3	4	5
Yard waste pick-up.....	1	2	3	4	5
Street repair.....	1	2	3	4	5
Street cleaning.....	1	2	3	4	5
Street lighting.....	1	2	3	4	5
Snow removal.....	1	2	3	4	5
Sidewalk maintenance.....	1	2	3	4	5
Traffic signal timing.....	1	2	3	4	5
Amount of public parking.....	1	2	3	4	5
Bus/transit services.....	1	2	3	4	5
Storm drainage.....	1	2	3	4	5
Drinking water.....	1	2	3	4	5
Sewer services.....	1	2	3	4	5
XYZ parks.....	1	2	3	4	5
Recreation programs or classes.....	1	2	3	4	5
Range/variety of recreation programs and classes.....	1	2	3	4	5
Recreation centers/facilities.....	1	2	3	4	5
Accessibility of parks.....	1	2	3	4	5
Accessibility of recreation centers/facilities.....	1	2	3	4	5
Appearance/maintenance of parks.....	1	2	3	4	5
Appearance of recreation centers/facilities.....	1	2	3	4	5
Land use, planning and zoning.....	1	2	3	4	5
Code enforcement (weeds, abandoned buildings, etc).....	1	2	3	4	5
Animal control.....	1	2	3	4	5
Economic development.....	1	2	3	4	5
Health services.....	1	2	3	4	5
Services to seniors.....	1	2	3	4	5
Services to youth.....	1	2	3	4	5
Services to low-income people.....	1	2	3	4	5
Public library services.....	1	2	3	4	5
Variety of library materials.....	1	2	3	4	5
Public information services.....	1	2	3	4	5
Municipal courts.....	1	2	3	4	5
Public schools.....	1	2	3	4	5
Cable television.....	1	2	3	4	5

11. Overall, how would you rate the quality of the services provided by...

	<u>excellent</u>	<u>good</u>	<u>fair</u>	<u>poor</u>	<u>don't know</u>
The XYZ of ABC?.....	1	2	3	4	5
The Federal Government?.....	1	2	3	4	5
The State Government?.....	1	2	3	4	5

12. Have you had any in-person or phone contact with an employee of the XYZ of ABC within the last 12 months (including police, receptionists, planners or any others)?

- ☐ no [go to question #14] ☐ yes [go to question #13]

13. What was your impression of employees of the XYZ of ABC in your most recent contact? (Rate each characteristic below.)

	excellent	good	fair	poor	don't know
Knowledge.....	1	2	3	4	5
Responsiveness.....	1	2	3	4	5
Courtesy	1	2	3	4	5
Overall impression	1	2	3	4	5

14. Please rate the following statements by circling the number that most clearly represents your opinion:

	strongly agree	somewhat agree	neither agree nor disagree	somewhat disagree	strongly disagree	don't know
I receive good value for the XYZ of ABC taxes I pay.....	1	2	3	4	5	6
I am pleased with the overall direction that the XYZ of ABC is taking.....	1	2	3	4	5	6
The XYZ of ABC government welcomes citizen involvement	1	2	3	4	5	6
The XYZ of ABC government listens to citizens	1	2	3	4	5	6

15. What impact, if any, do you think the economy will have on your family income in the next 6 months? Do you think the impact will be:

- ☐ very positive ☐ somewhat positive ☐ neutral ☐ somewhat negative ☐ very negative

16. Please check the response that comes closest to your opinion for each of the following questions:

a. Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1
Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1
Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1

- ☐ scale point 1 ☐ scale point 4
☐ scale point 2 ☐ scale point 5
☐ scale point 3 ☐ scale point 6

b. Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2
Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2
Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2

- ☐ scale point 1 ☐ scale point 4
☐ scale point 2 ☐ scale point 5
☐ scale point 3 ☐ scale point 6

c. Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3
Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3
Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3

- ☐ scale point 1 ☐ scale point 4
☐ scale point 2 ☐ scale point 5
☐ scale point 3 ☐ scale point 6

d. OPTIONAL [See Worksheets for details and price of this option] Open-Ended Question Open-Ended Question
Open-Ended Question Open-Ended Question Open-Ended Question Open-Ended Question Open-Ended Question
Open-Ended Question Open-Ended Question Open-Ended Question Open-Ended Question Open-Ended Question

Our last questions are about you and your household. Again, all of your responses to this survey are completely anonymous and will be reported in group form only.

17. Do you live within the XYZ limits of the XYZ of ABC?

- ☐ no ☐ yes

18. Are you currently employed?

- ☐ no [go to question #19] ☐ yes [go to question #18a]

18a. What one method of transportation do you *usually* use (for the longest distance of your commute) to travel to work?

- ☐ Motorized vehicle (e.g. car, truck, van, motorcycle etc...)
☐ Bus, Rail, Subway, or other public transportation
☐ Walk
☐ Work at home
☐ Other

18b. If you checked the motorized vehicle (e.g. car, truck, van, motorcycle, etc.) box in 18a, do other people (adults or children) *usually* ride with you to or from work?

- ☐ no ☐ yes

19. How many years have you lived in ABC?

- ☐ less than 2 years ☐ 11-20 years
☐ 2-5 years ☐ more than 20 years
☐ 6-10 years

20. Which best describes the building you live in?

- ☐ one family house detached from any other houses
☐ house attached to one or more houses (e.g. a duplex or townhome)
☐ building with two or more apartments or condominiums
☐ mobile home
☐ other

21. Is this house, apartment, or mobile home...

- ☐ rented for cash or occupied without cash payment?
☐ owned by you or someone in this house with a mortgage or free and clear?

22. Do any children 12 or under live in your household?

- ☐ no ☐ yes

23. Do any teenagers aged between 13 and 17 live in your household?

- ☐ no ☐ yes

24. Are you or any other members of your household aged 65 or older?

- ☐ no ☐ yes

25. Does any member of your household have a physical handicap or is anyone disabled?

- ☐ no ☐ yes

26. What is the highest degree or level of school you have completed? (mark one box)

- ☐ 12th Grade or less, no diploma
☐ high school diploma
☐ some college, no degree
☐ associate's degree (e.g. AA, AS)
☐ bachelor's degree (e.g. BA, AB, BS)
☐ graduate degree or professional degree

27. How much do you anticipate your household's total income before taxes will be for the current year? (Please include in your total income money from all sources for all persons living in your household.)

- ☐ less than \$24,999
☐ \$25,000 to \$49,999
☐ \$50,000 to \$99,999
☐ \$100,000 or more

28. Are you Spanish/Hispanic/Latino?

- ☐ no ☐ yes

29. What is your race? (Mark one or more races to indicate what race you consider yourself to be)

- ☐ American Indian or Alaskan native
☐ Asian or Pacific Islander
☐ Black, African American
☐ White/Caucasian
☐ Other

30. In which category is your age?

- ☐ 18-24 years ☐ 55-64 years
☐ 25-34 years ☐ 65-74 years
☐ 35-44 years ☐ 75 years or older
☐ 45-54 years

31. What is your sex?

- ☐ female ☐ male

32. Are you registered to vote in your jurisdiction?

- ☐ no ☐ yes ☐ don't know

33. Did you vote in the last election?

- ☐ no ☐ yes ☐ don't know

34. Are you likely to vote in the next election?

- ☐ no ☐ yes ☐ don't know

Thank you for completing this survey. Please return the completed survey in the postage paid envelope to: National Research Center, Inc., 3005 30th St., Boulder, CO 80301